



# Journal of the House

State of Indiana

112th General Assembly

Second Regular Session

Fifteenth Meeting Day

Wednesday Afternoon

January 30, 2002

The House convened at 1:00 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor Tom Anderson, Sandborn United Methodist Church, Edwardsport, the guest of Speaker John R. Gregg.

The Pledge of Allegiance to the Flag was led by Representative Dean R. Mock.

The Speaker ordered the roll of the House to be called:

T. Adams ...	Hoffman
Aguilera	Kersey
Alderman	Klinker
Atterholt	Kromkowski
Avery	Kruse
Ayres	Kruzan
Bardon ...	Kuzman
Bauer	Lawson
Becker	Leuck
Behning	Liggett
Bischoff	J. Lutz
Bodiker	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	McClain
C. Brown	Mock
T. Brown	Moses
Buck	Munson
Budak	Murphy
Buell	Noe
Burton	Oxley
Cheney	Pelath
Cherry	Pond
Cochran	Porter
Cook	Reske
Crawford	Richardson
Crooks	Ripley
Crosby	Robertson
Day	Ruppel ...
Denbo	Saunders
Dickinson	Scholer
Dillon	M. Smith
Dobis	V. Smith
Dumezich	Steele
Duncan	Stevenson
Dvorak	Stilwell
Espich	Sturtz
Foley ...	Summers
Frenz	Thompson
Friend	Tincher
Frizzell	Torr
Fry	Turner
GiaQuinta	Ulmer
Goodin	Weinzapfel
Grubb	Welch
Harris	Whetstone
Hasler	Wolkins
Herndon	D. Young
Herrell	Yount
Hinkle	Mr. Speaker

Roll Call 32: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ... indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, January 31, 2002, at 10:00 a.m.

BISCHOFF

Motion prevailed.

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 17, 20, 25, 45, 50, 52, 58, 59, 97, 100, 102, 104, 109, 141, 195, 206, 217, 262, 315, 363, 423, and 459 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL

Principal Secretary of the Senate

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 3, 4, and 5 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL

Principal Secretary of the Senate

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 24

Representative V. Smith introduced House Concurrent Resolution 24:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to study the extent of wage disparities, both in the public and private sector, between men and women and between minorities and nonminorities.

*Whereas, People's wages should be based on the value of their work; and*

*Whereas, Women, on average, earn less and must work longer for the same pay: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the legislative council is urged to establish a committee to study the extent of wage disparities, both in the public and private sector, between men and women and between minorities and nonminorities.

SECTION 2. That the committee, if established, shall also study:

(1) those factors that cause or tend to cause such disparities, including segregation between women and men and between minorities and nonminorities across and within occupations, payment of lower wages for female dominated occupations, child rearing responsibilities, and education and training;

(2) the consequences of such disparities on the economy and families affected; and

(3) actions, including proposed legislation, that are likely to lead to the elimination and prevention of such disparities.

SECTION 3. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Rogers.

**House Concurrent Resolution 25**

Representatives Duncan, Summers, Fry, and Alderman introduced House Concurrent Resolution 25:

A CONCURRENT RESOLUTION encouraging the Congress of the United States of America to enact legislation requiring coverage for treatment of pervasive developmental disorders under employee health benefit plans that are regulated under the federal Employee Retirement Income Security Act of 1974 (ERISA). (This resolution was prepared by the Indiana Commission on Autism.)

*Whereas, Pervasive developmental disorders, including Asperger's syndrome and autism, are neurological disorders that affect an individual's ability to communicate, understand language, interact, and relate to others;*

*Whereas, Individuals with a pervasive developmental disorder vary widely in abilities, intelligence, and behaviors;*

*Whereas, Early diagnosis and treatment is important to the achievement of the maximum functional potential of individuals who have a pervasive developmental disorder;*

*Whereas, Coverage for the treatment of a pervasive developmental disorder is not provided under most health benefit plans, including employee health benefit plans that are regulated under ERISA, because such plans are exempt from state regulation;*

*Whereas, The 2001 Indiana General Assembly enacted HEA 1122-2001, requiring coverage for treatment of pervasive developmental disorders under the Indiana state employee health benefit plans, group accident and sickness insurance policies, and health maintenance organization group contracts issued after June 30, 2001;*

*Whereas, HEA 1122-2001 requires an offer of coverage for treatment of pervasive developmental disorders under individual accident and sickness insurance policies and health maintenance organization individual contracts issued after June 30, 2001; and*

*Whereas, The members of the Indiana Commission on Autism and the members of the Indiana General Assembly believe that all health benefit plans, including employee health benefit plans that are regulated under ERISA, should provide coverage for treatment of pervasive developmental disorders: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly encourages the Congress of the United States of America to enact legislation that requires coverage for treatment of pervasive developmental disorders under employee health benefit plans that are regulated under ERISA.

SECTION 2. That the Principal Clerk of the House of Representatives transmit copies of this resolution to the members of the Indiana congressional delegation and the members of the congressional bipartisan autism caucus.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

**House Concurrent Resolution 26**

Representatives Atterholt and GiaQuinta introduced House Concurrent Resolution 26:

A CONCURRENT RESOLUTION concerning the terrorist attacks launched against the United States on September 11, 2001.

*Whereas, On September 11, 2001, terrorists hijacked and destroyed four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York City, and a third into the Pentagon outside Washington, D.C.;*

*Whereas, Thousands of innocent Americans were killed and injured as a result of these attacks, including the passengers and crew of the four aircraft, workers in the World Trade Center and in the Pentagon, rescue workers, and bystanders;*

*Whereas, These attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon; and*

*Whereas, These attacks were by far the deadliest terrorist attacks ever launched against the United States, and by targeting symbols of American strength and success, clearly were intended to intimidate our nation and weaken its resolve: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly condemns in the strongest possible terms the terrorists who planned and carried out the September 11, 2001, attacks against the United States.

SECTION 2. That the Indiana General Assembly extends its deepest condolences to the victims of these heinous and cowardly attacks, especially to those victims from Indiana, as well as to their families, friends, and loved ones.

SECTION 3. That the Indiana General Assembly commends the citizens of Indiana, along with all of the people of the United States, for standing united as our nation recovers and rebuilds in the aftermath of these tragic acts.

SECTION 4. That the Indiana General Assembly commends the heroic actions of the rescue workers, volunteers, and state and local officials, especially those from Indiana, who responded to these tragic events with courage, determination, and skill.

SECTION 5. That the Indiana General Assembly declares that these premeditated attacks struck not only at the people of Indiana and of the United States, but also at the symbols and structures of our economic and military strength, and that the Indiana General Assembly supports the President of the United States and the United States Congress in their response under international law.

SECTION 6. That the Indiana General Assembly thanks those foreign leaders and individuals who have expressed solidarity with the United States in the aftermath of the attacks, and supports the President of the United States and the United States Congress in asking those foreign leaders and individuals to continue to stand with the United States in the war against international terrorism.

SECTION 7. That the Indiana General Assembly supports increased use of resources in the war to eradicate terrorism.

SECTION 8. That the Indiana General Assembly supports the determination of the President, in close consultation with the United States Congress, to bring to justice and punish the perpetrators of these attacks as well as their sponsors.

SECTION 9. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to members of the Indiana congressional delegation and to the President of the United States.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Wyss and Craycraft.

**Senate Concurrent Resolution 4**

The Speaker handed down Senate Concurrent Resolution 4, sponsored by Representatives GiaQuinta and Grubb:

A CONCURRENT RESOLUTION urging employers to support employees serving in reserve units and in the National Guard.

*Whereas, The events of September 11, 2001, have had a tremendous effect on life in the United States and in Indiana;*

*Whereas, Employers in the United States and Indiana are recognizing that workers who serve in the National Guard and reserve units of the armed forces are critical to the nation's defense, including the war on terrorism;*

*Whereas, Indiana employers with the means to do so are supporting their employees who are called up to serve in the National Guard and in reserve units by such actions as pledging to make up the difference between the employees' civilian and military pay and continuing the workers' benefits; and*

*Whereas, Indiana employers that are not able to make such a generous pledge are publicly assuring their employees that the*

*employees' military commitment is appreciated and will not be used as a reason to deny the employees promotions and raises: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That Indiana General Assembly commends the efforts of Indiana employers to support their employees who are called up to serve in the National Guard and in the reserve units of the armed forces of the United States and urges every Indiana employer to support those employees called to service in the armed forces to the extent and in the most generous manner possible.

SECTION 2. That copies of the resolution be transmitted by the Secretary of the Senate to the Governor and to the Adjutant General of the Indiana National Guard.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## HOUSE BILLS ON SECOND READING

### House Bill 1176

Representative Bottorff called down House Bill 1176 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1108

Representative Porter called down House Bill 1108 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1108-1)

Mr. Speaker: I move that House Bill 1108 be amended to read as follows:

Page 1, line 2, after "4." insert "(a)".

Page 1, between lines 7 and 8, begin a new paragraph and insert: **"(b) The department shall make each school corporation's annual performance report available on the department's Internet web site. The governing body of a school corporation may make the school corporation's annual performance report available on the school corporation's Internet web site.**

**(c) The governing body of a school corporation shall provide a copy of the annual performance report to any person who requests a copy. The governing body may not charge a fee for providing the copy."**

Page 2, line 8, delete "Staff" and insert **"The number and types of staff"**.

Page 2, line 8, delete ", including the type and" and insert **"programs."**

Page 2, delete line 9.

Page 2, line 42, strike "benchmarks or indicators of".

Page 3, line 1, strike "performance:" and insert **"information:"**.

Page 3, line 15, delete "." and insert **", if offered."**

Page 3, line 18, delete "." and insert **", if offered."**

Page 3, line 39, after "of" insert **"Grade 8"**.

Page 3, line 39, delete "I in the" and insert **"I."**

Page 3, delete line 40.

Page 4, line 4, after "factors" insert **", "**.

Page 4, line 5, strike "relevant to performance."

Page 4, line 23, after "teacher" insert **"is certified and"**.

(Reference is to HB 1108 as printed January 24, 2002.)

PORTER

Motion prevailed. The bill was ordered engrossed.

### House Bill 1264

Representative Porter called down House Bill 1264 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1264-2)

Mr. Speaker: I move that House Bill 1264 be amended to read as follows:

Page 3, after line 42, begin a new paragraph and insert: **"(c) This section expires June 30, 2005."**

(Reference is to HB 1264 as printed January 24, 2002.)

PORTER

Motion prevailed. The bill was ordered engrossed.

### House Bill 1345

Representative Pelath called down House Bill 1345 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1345-1)

Mr. Speaker: I move that House Bill 1345 be amended to read as follows:

Page 2, line 34, delete "with" and insert **"whom the employee in good faith believes has"**.

(Reference is to HB 1345 as printed January 23, 2002.)

PELATH

Motion prevailed.

#### HOUSE MOTION (Amendment 1345-2)

Mr. Speaker: I move that House Bill 1345 be amended to read as follows:

Page 3, after line 17, begin a new paragraph and insert:

**"SECTION 3. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:**

**Chapter 6. Termination of Employment Relationship**

**Sec. 1. As used in this chapter, "discharge for just cause" has the meaning set forth in IC 22-4-15-1(d).**

**Sec. 2. This chapter applies to employees discharged from employment after June 30, 2003.**

**Sec. 3. The common law doctrine of employment at will in the state is hereby abrogated.**

**Sec. 4. An employee may only be discharged for just cause.**

**Sec. 5. An employee discharged in violation of this chapter may institute a civil action against the employee's former employer.**

(Reference is to HB 1345 as printed January 23, 2002.)

CRAWFORD

Representative Torr rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question was upon the motion of Representative Crawford (1345-2). Upon request of Representatives Steele and Turner, the Speaker ordered the roll of the House to be called. Roll Call 33: yeas 45, nays 43. Motion prevailed. The bill was ordered engrossed.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 1001, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning antiterrorism measures and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 4-3-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:**

**Chapter 20. Counterterrorism and Security Council**

**Sec. 1. As used in this chapter, "council" refers to the counterterrorism and security council established by section 2 of this chapter.**

**Sec. 2. The counterterrorism and security council is established.**

**Sec. 3. (a) The council consists of the following members:**

**(1) The lieutenant governor.**

- (2) The superintendent of the state police department.
  - (3) The adjutant general.
  - (4) The director of the state emergency management agency.
  - (5) The state fire marshal.
  - (6) The state health commissioner.
  - (7) The commissioner of the department of environmental management.
  - (8) The assistant commissioner of agriculture.
  - (9) The chairman of the Indiana utility regulatory commission.
  - (10) The commissioner of the Indiana department of transportation.
  - (11) The executive director of the Indiana criminal justice institute.
  - (12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.
  - (13) The speaker of the house of representatives.
  - (14) The president pro tempore of the senate.
  - (15) The chief justice of the supreme court.
- (b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.
- (c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.
- Sec. 4.** The lieutenant governor shall serve as the chair of the council and in this capacity, report directly to the governor.
- Sec. 5.** (a) The council shall do the following:
- (1) Develop a strategy to enhance the state's capacity to prevent and respond to terrorism.
  - (2) Develop a counterterrorism plan in conjunction with relevant state agencies, including a comprehensive needs assessment.
  - (3) Review each year and update when necessary the plan developed under subdivision (2).
  - (4) Develop in concert with the law enforcement training academy a counterterrorism curriculum for use in basic police training and for advanced in-service training of veteran law enforcement officers.
  - (5) Develop an affiliate of the council in each county to coordinate local efforts and serve as the community point of contact for the council and the United States Office of Homeland Security.
- (b) The council shall report periodically its findings and recommendations to the governor.
- Sec. 6.** (a) The governor shall appoint an executive director for the council. The executive director may employ additional staff for the council, subject to the approval of the governor.
- (b) The executive director of the council shall serve as:
- (1) the central coordinator for counterterrorism issues; and
  - (2) the state's point of contact for:
    - (A) the Office of Domestic Preparedness in the United States Department of Justice; and
    - (B) the United States Office of Homeland Security.
- Sec. 7.** (a) The expenses of the council shall be paid from appropriations made by the general assembly.
- (b) Money received by the council as a grant or a gift is appropriated for the purposes of the grant or the gift.
- Sec. 8.** (a) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (b) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (c) Each member of the council who is a member of the general

assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

**Sec. 9.** The affirmative votes of a majority of the voting members of the council are required for the council to take action on any measure, including final reports.

**Sec. 10.** (a) The council may receive confidential law enforcement information from the state police department, the Federal Bureau of Investigation, or other federal, state, or local law enforcement agencies.

(b) For purposes of IC 5-14-1.5 and IC 5-14-3, information received under subsection (a) is confidential.

**Sec. 11.** All state agencies shall cooperate to the fullest extent possible with the council and the executive director to implement this chapter.

**SECTION 2.** IC 4-3-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 21. Discharge of the Governor's Powers and Duties by Individuals Other Than the Governor**

**Sec. 1.** The purpose of this chapter is to implement Article 5, Section 10(e) of the Constitution of the State of Indiana.

**Sec. 2.** Except as provided in this chapter, an individual holding one (1) of the following offices shall discharge the powers and duties of the governor if the office of governor and the office of lieutenant governor are both vacant, in the order listed:

- (1) The speaker of the house of representatives.
- (2) The president pro tempore of the senate.
- (3) The attorney general.
- (4) The treasurer of state.
- (5) The auditor of state.
- (6) The secretary of state.
- (7) The state superintendent of public instruction.
- (8) The clerk of the supreme court.

**Sec. 3.** An individual holding an office or position described in section 2 of this chapter may discharge the powers and duties of the governor only if all of the following apply:

- (1) The individual is a member of the same political party as the individual who most recently held the office of governor.
- (2) All offices listed in section 2 of this chapter before the office the individual holds are either:
  - (A) vacant; or
  - (B) held by individuals who are not members of the same political party as the individual who most recently held the office of governor.

**Sec. 4.** An individual's authority to discharge the governor's powers and duties under this chapter ends when the general assembly fills the office of governor under Article 5, Section 10 of the Constitution of the State of Indiana.

**SECTION 3.** IC 4-4-30 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 30. Center for Coal Technology Research**

**Sec. 1.** As used in this chapter, "center" refers to the center for coal technology research established under this chapter.

**Sec. 2.** As used in this chapter, "director" refers to the director of the department of commerce.

**Sec. 3.** As used in this chapter, "fund" refers to the coal technology research fund established by section 8 of this chapter.

**Sec. 4.** As used in this chapter, "Indiana coal" has the meaning set forth in IC 8-1-2-6.1.

**Sec. 5.** The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.
- (5) Investigate ways to increase coal combustion efficiency.

(6) Develop materials that withstand higher combustion temperatures.

(7) Any other matter concerning coal technology research as determined by the center.

**Sec. 6. In carrying out its duties under this chapter, the center shall be located at Purdue University at West Lafayette and shall cooperate with and may use the resources of:**

- (1) Indiana University Geological Survey and other state educational institutions;
- (2) a state or federal department or agency;
- (3) a political subdivision; and
- (4) interest groups representing business, environment, industry, science, and technology.

**Sec. 7. To carry out the center's duties described in section 5 of this chapter, the director or the director's designee, acting on behalf of the center, may:**

- (1) organize the center in the manner necessary to implement this chapter;
- (2) execute contractual agreements, including contracts for:
  - (A) the operation of the center;
  - (B) the performance of any of the duties described in section 5 of this chapter; and
  - (C) any other services necessary to carry out this chapter;
- (3) receive money from any source for purposes of this chapter;
- (4) expend money for an activity appropriate to the purposes of this chapter;
- (5) execute agreements and cooperate with:
  - (A) Purdue University and other state educational institutions;
  - (B) a state or federal department or agency;
  - (C) a political subdivision; and
  - (D) interest groups representing business, the environment, industry, science, and technology; and
- (6) subject to the approval of the budget agency, employ personnel as necessary for the efficient administration of this chapter.

**Sec. 8. (a) The coal technology research fund is established for the purpose of providing money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.**

**(b) The fund consists of the following:**

- (1) Money appropriated by the general assembly.
- (2) Gifts, grants, and bequests.

**(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.**

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**SECTION 4. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 1.5. (a) Whenever any state governmental official, ~~or~~ employee, (whether elected or appointed), **or construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30** is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-8.1-5-2(e), the attorney general shall defend the teacher throughout the action.

(c) A determination by the attorney general under subsection (a) or (b) shall not be admitted as evidence in the trial of any such civil action for damages.

(d) Nothing in this chapter shall be construed to deprive any such person of his right to select counsel of his own choice at his own expense.

**SECTION 5. IC 4-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 1. Whenever any such action, counter-claim, petition, or cross-complaint is filed in any court in this state in which the state of Indiana or any board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or any construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30**, is a party and the attorney general is required or authorized to appear or defend, or when the attorney general is entitled to be heard, a copy of the complaint, cross-complaint, petition, bill, or pleading shall be served on the attorney general and such action, cross-action, or proceeding shall not be deemed to be commenced as to the state or ~~any such~~ the board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as to the construction industry professional**, until such service. Whenever the attorney general has appeared in any suit, action, or proceeding, copies of all motions, demurrers, petitions, and pleadings filed therein shall be served upon the attorney general by the party filing the same; provided, further, that the clerk of the court shall cause to be served upon the attorney general a copy of the ruling made by the court upon such motions, demurrers, petitions, and pleadings, and such ruling shall not be deemed effective in any manner as against the attorney general, ~~or~~ as against the state of Indiana or ~~any the~~ board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as against the construction industry professional** unless and until such copy shall be served upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that in any action in which the attorney general is required or authorized to appear or defend or entitled to be heard, in which action some matter or thing occurs upon which occurrence time begins to run, the running of such time shall be suspended as to the attorney general until such service is had upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that whenever any claim filed for and on behalf of the state of Indiana or any board, bureau, commission, department, division, agency, officer, or institution of the state of Indiana in any estate or guardianship pending in any court having probate jurisdiction in the state of Indiana is not allowed and the clerk of the court, administrator, administratrix, executor, executrix, or guardian transfers such claim to the trial docket, said claim shall not be disposed of nor shall any disposition made of such claim be deemed to be a final adjudication unless and until due notice of the trial date of such claim shall be served on the attorney general or any deputy attorney general as provided in section 2 of this chapter at least ten (10) days prior to the date set for trial of said claim.

**SECTION 6. IC 4-13.5-1-1, AS AMENDED BY P.L.291-2001, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 1. As used in this article:

"Commission" refers to the state office building commission.

**"Communications system infrastructure" has the meaning set forth in IC 5-26-5-1.**

"Construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

"Correctional facility" means a building, a structure, or an improvement for the custody, care, confinement, or treatment of committed persons under IC 11.

"Department" refers to:

- (1) **the integrated public safety commission, for purposes of a facility consisting of communications system infrastructure; and**
- (2) **the Indiana department of administration, for purposes of all other facilities.**

"Mental health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

"Facility" means all or any part of one (1) or more buildings, structures, or improvements (whether new or existing), or parking

areas (whether surface or an above or below ground parking garage or garages), owned or leased by the commission or the state for the purpose of:

- (1) housing the personnel or activities of state agencies or branches of state government;
- (2) providing transportation or parking for state employees or persons having business with state government;
- (3) providing a correctional facility;
- (4) providing a mental health facility; ~~or~~
- (5) providing a regional health facility; ~~or~~
- (6) providing communications system infrastructure.**

"Person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

"Regional health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

"State agency" means an authority, a board, a commission, a committee, a department, a division, or other instrumentality of state government, but does not include a state educational institution (as defined in IC 20-12-0.5-1).

SECTION 7. IC 4-13.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **Subject to section 8 of this chapter**, the commission may not enter into:

- (1) a contract for the performance of work, other than a contract of employment with a professional person or a commission employee; or
- (2) a contract for the purchase or sale of materials or supplies; without complying with IC 4-13-2 and the rules and procedures of the department.

SECTION 8. IC 4-13.5-1-8, AS AMENDED BY P.L.195-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The commission may employ architects, engineers, space planners, construction managers, and other professional persons it considers necessary to prepare complete plans and specifications necessary for bidding for construction. The commission shall consider economy of operation to the extent practicable in preparing and approving plans and specifications.

(b) The plans and specifications shall be presented for approval to:

- (1) the department;
- (2) if the facility is designed to house the supreme court or court of appeals, the administrator of the supreme court for approval by the courts; ~~and~~
- (3) if the facility is a correctional facility, the department of correction; ~~and~~
- (4) if the facility consists of communications system infrastructure, the integrated public safety commission.**

(c) After the plans and specifications have been approved by the commission under subsection (b), the commission shall advertise for and receive construction bids and award contracts to the best bidders in the same manner as required by law for the department. **However, with respect to a facility that consists of communications system infrastructure, if the commission finds that the integrated public safety commission has already advertised for and received construction bids or awarded contracts to the best bidders, or both, substantially in the same manner as required by law for the Indiana department of administration, the commission is not required to repeat the advertisement, receipt of bids, or award of contracts. In making the finding described in this subsection, the commission may rely upon a certificate of the integrated public safety commission. If the commission makes the finding described in this subsection, this is all the authority the commission needs to accept the assignment of the bids or contracts, or both, from the integrated public safety commission, and all the authority the integrated public safety commission needs to assign the bids or contracts, or both, to the commission.**

(d) With regard to participation by minority and women's business enterprises (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3), the commission shall act in the same manner as required by law for the department.

SECTION 9. IC 4-20.5-6-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **(a) This section does not apply to enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

**(b)** The department shall maintain, equip, and operate the following:

- (1) The state capitol building.
- (2) The office buildings and other property owned or leased by the state for the use of an agency.

SECTION 10. IC 4-20.5-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a) Except for enforcement matters that are the responsibility of the state police department under IC 10-1-1-29**, the commissioner is the custodian of state buildings and grounds.

**(b) The commissioner may appoint security officers for the purpose of maintaining security and preserving the peace in and about the following:**

- (1) The state capitol building.**
- (2) A state office building.**
- (3) A state parking facility.**
- (4) A state motor pool garage.**
- (5) A state warehouse.**
- (6) The Indiana state library.**
- (7) The governor's residence.**
- (8) Any other building or other property used by the state for any of the following purposes:**

- (A) Housing the personnel or activities of an agency or a branch of state government.**
- (B) Providing transportation or parking for state employees or persons having business with state government.**

**(c) The commissioner and the security officers appointed by the commissioner possess all the common law and statutory powers of law enforcement officers, except for the service of civil process.**

**(d) For purposes of IC 5-2-1, the commissioner and security officers appointed under this chapter are special officers.**

**(e) All security officers are subject to preemployment investigation by the state police department.**

SECTION 11. IC 4-20.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The department ~~shall~~ **may** adopt rules under IC 4-22-2 to govern the protection and custody of state property, **except for enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

SECTION 12. IC 4-20.5-6-8, AS AMENDED BY P.L.172-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **This section does not apply to enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

**(b)** The commissioner may regulate:

- (1) the traffic and parking of motor vehicles, bicycles, or other vehicles; and
- (2) the traffic of pedestrians;

on the streets, roads, paths, and grounds of real property controlled by the state through the department of ~~administration~~ in and around the state capitol, office buildings, parking garages, and adjoining state controlled property.

**(b) (c)** Rules adopted under subsection ~~(a)~~ **(b)** may include the following:

- (1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.
- (2) Provisions governing the traffic of pedestrians.
- (3) Provisions prescribing the assessment and collection of civil penalties for the violation of rules adopted by the commissioner. Penalties may include the following:

- (A) The imposition of reasonable charges.
- (B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.
- (C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

**(c) (d)** Rules adopted under this section must include provisions

for an administrative appeal when a civil penalty is imposed under the rules. A person aggrieved by a final disposition of an appeal by the department may appeal the disposition to a court of jurisdiction. The attorney general may enforce a civil penalty imposed under this section by filing an appropriate action in a court of jurisdiction.

(d) (e) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys, or ways.

SECTION 13. IC 5-22-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

**(b) The counterterrorism and security council established by IC 4-3-20-2 may make a purchase under this section to preserve security or act in an emergency as determined by the governor.**

SECTION 14. IC 5-26-2-5, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The commission's powers include the following:

- (1) Planning for voluntary coordination of resources by public safety agencies.
- (2) Developing coordinated, integrated responses to significant public safety events by those public safety agencies that choose to take part.
- (3) Developing means of sharing information operationally and technologically to improve public safety.
- (4) Contracting with consultants to assist in the planning and development under this article.
- (5) Contracting with others to provide services under this article.
- (6) **Accepting gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agreeing to and complying with conditions attached thereto as necessary or appropriate to the purposes of the commission.**
- (7) **Acquiring real property, or any interest therein, by lease, conveyance (including purchase) instead of foreclosure, or foreclosure as necessary or appropriate to the purposes of the commission.**
- (8) **Owning, managing, operating, holding, clearing, improving, and constructing facilities on real property as necessary or appropriate to the purposes of the commission.**
- (9) **Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering real property, or interests therein or facilities thereon as necessary or appropriate to the purposes of the commission.**
- (10) **Acquiring personal property by lease or conveyance as necessary or appropriate to the purposes of the commission.**
- (11) **Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering personal property, or interests therein as necessary or appropriate to the purposes of the commission.**
- (12) The powers enumerated in IC 5-26-3-6.
- (13) **Any other power necessary, proper, or convenient to accomplish the goals of the commission: carry out this article.**

SECTION 15. IC 5-26-3-6, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) In addition to the powers enumerated in IC 5-26-2-5, the commission has the following powers related to the system:

- (1) Ensuring that federal and state communications requirements are followed.
- (2) Providing system planning, including mutual aid planning and compatibility planning with other public safety agency communications systems.
- (3) Creating a standard user agreement.
- (4) Providing assistance to local public safety agencies in making equipment purchases.
- (5) Assessing charges for using the system.
- (6) **Entering into and performing use and occupancy agreements concerning the system under IC 4-13.5.**
- (7) Exercising any power necessary to carry out this chapter.

(b) The Indiana statewide wireless public safety voice and data communications system may use the facilities of commercial mobile radio service providers (as defined in 47 USC 332). If the commission chooses to contract with one or more commercial mobile radio service providers to provide the system, the commission may delegate the responsibilities in subsection (a) to the commercial mobile radio service providers.

SECTION 16. IC 5-26-4-1, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The integrated public safety communications fund is established to be used only to carry out the purposes of this article. The fund shall be administered by the commission.

(b) The fund consists of:

- (1) appropriations from the general assembly;
- (2) gifts;
- (3) federal grants;
- (4) fees and contributions from user agencies that the commission considers necessary to maintain and operate the system; and
- (5) money from any other source permitted by law.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

**(e) The commission shall transfer money from the fund to the communications system infrastructure fund in amounts sufficient to pay rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.**

SECTION 17. IC 5-26-4-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. There is annually appropriated to the commission the money in the fund for its use, subject to the approval of the budget agency, in the acquisition, construction, equipping, operation, maintenance, and financing of the system and state user equipment for the system, including the payment of rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.

SECTION 18. IC 5-26-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### Chapter 5. Communications System Infrastructure Fund

Sec. 1. As used in this chapter, "communications system infrastructure" means all or part of the infrastructure of the system described in IC 5-26-3, including:

- (1) towers and the associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the tower to function as part of the system;
- (2) the radio and network equipment necessary, proper, or convenient to transmit and receive voice and data communications; and
- (3) any other necessary, proper, or convenient elements of the system.

Sec. 2. As used in this chapter, "construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

Sec. 3. As used in this chapter, "infrastructure fund" refers to the communications system infrastructure fund.

Sec. 4. The communications system infrastructure fund is established for the purpose of providing communications system infrastructure. The infrastructure fund consists of distributions received under IC 5-26-4-1(e).

Sec. 5. The infrastructure fund shall be administered by the commission. The treasurer of state shall invest the money in the infrastructure fund not currently needed to meet the obligations



of the infrastructure fund in the same manner as other public funds may be invested.

**Sec. 6. Money in the infrastructure fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 7. The commission may use the money in the infrastructure fund only to pay the following costs:**

- (1) The cost of construction of communications system infrastructure.
- (2) The cost of acquisition or leasing of all real or personal property required for the construction of communications system infrastructure.
- (3) The cost of operation and maintenance of communications system infrastructure.
- (4) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the commission for the construction of communications system infrastructure.
- (5) Engineering and legal expenses, other professional services, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.
- (6) Payment of rentals and other obligations and performance of other obligations under use and occupancy agreements or other contracts or leases relating to the financing of communications system infrastructure under IC 4-13.5.

**Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the state office building commission from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.**

**Sec. 9. There is annually appropriated to the commission the money in the infrastructure fund for its use, subject to the approval of the budget agency, in carrying out the purposes described in section 7 of this chapter.**

SECTION 19. IC 9-24-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. ~~2304~~, ~~31104~~, 49 U.S.C. ~~2701~~ ~~31301~~ through ~~2716~~, ~~31306~~, 49 U.S.C. ~~31308~~ through ~~31317~~, and 49 CFR 383.

(c) Rules adopted under this section must include the following:

- (1) Establishment of classes and periods of validation of commercial driver's licenses.
- (2) Standards for commercial driver's licenses, including suspension and revocation procedures.
- (3) **Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.**
- (4) Development of written or oral tests, driving tests, and fitness requirements.
- ~~(4)~~ (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.
- ~~(5)~~ (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.
- ~~(6)~~ (7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.
- ~~(7)~~ **(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.**
- ~~(8)~~ (9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 is adopted as Indiana law.

SECTION 20. IC 9-24-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A driver who:

- (1) is:
  - (A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and  
(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

**(b) A driver who applies for a hazardous materials endorsement and has been convicted of:**

- (1) a felony under Indiana law that results in serious bodily injury or death to another person; or
- (2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

**(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:**

- (1) felony under Indiana law that results in serious bodily injury or death to another person; or
- (2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

SECTION 21. IC 9-29-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. (a) Except as provided by subsections (b) and (c), or as otherwise provided by this chapter, the service charges collected under this chapter shall be deposited in the state license branch fund established under IC 9-29-14.

**(b) One dollar and twenty-five cents (\$1.25) of each service charge increase established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in sections 4, 6, 7, 8, 9, 10, 11, 12, 14, and 18 of this chapter shall be deposited in the integrated public safety communications fund established by IC 5-26-4-1.**

**(c) One dollar and twenty-five cents (\$1.25) of each service charge established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in IC 9-29-15-1 shall be deposited in the integrated public safety communications fund established under IC 5-26-4-1.**

SECTION 22. IC 10-1-1-28, AS ADDED BY P.L.69-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 28. (a) As used in this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that:

- (1) a motor carrier inspector; or
- (2) a special police employee of the department who is not a regular police employee of the department;**

is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of the inspector's **or special police employee's** regular duties.

(b) A special death benefit of one hundred fifty thousand dollars (\$150,000) for a motor carrier inspector **or special police employee** who dies in the line of duty shall be paid in a lump sum from the special death benefit fund established by IC 5-10-10-5 to the following relative of a motor carrier inspector who dies in the line of duty:

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

SECTION 23. IC 10-1-1-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. (a) **The department shall maintain security and preserve the peace in and about the following:**

- (1) The state capitol building.**
- (2) A state office building.**
- (3) A state parking facility.**
- (4) A state motor pool garage.**



- (5) A state warehouse.
- (6) The Indiana state library.
- (7) The governor's residence.
- (8) Any other building or property used by the state for any of the following purposes:

- (A) Housing of personnel or activities of an agency or a branch of state government.
- (B) Providing transportation or parking for state employees or persons having business with state government.

(b) A special police employee of the department assigned to the security activities under this section, other than an officer or police employee of the department who possesses police powers under section 10 of this chapter, possesses all of the common law and statutory powers of law enforcement officers, except for the service of civil process.

(c) For purposes of IC 5-2-1, a special police employee assigned to the security activities under this section, other than a regular police employee of the department, is a special officer.

(d) Special police employees shall enforce IC 4-20.5 and rules of the Indiana department of administration.

(e) The superintendent may adopt rules under IC 4-22-2 to do the following:

- (1) Enforce IC 4-20.5 and rules of the Indiana department of administration concerning the security of state property.
- (2) Carry out the responsibilities for security of state property under this section.

SECTION 24. IC 10-1-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 30. The superintendent may assign a special police employee described in section 29(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under IC 4-33-4-3.6.**

SECTION 25. IC 10-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter:

- (1) "Emergency management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and coordination of the foregoing functions.
- (2) "Political subdivision" has the meaning set forth in IC 36-1-2-13.
- (3) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action.
- (4) "Energy" means coal, petroleum or other liquid fuels, natural or synfuel gas, or electricity.
- (5) "Energy emergency" means an existing or projected shortfall of at least eight percent (8%) of motor fuel or of other energy sources which threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized.

(6) "Construction industry professional" means:

- (A) an architect;
- (B) a professional engineer;
- (C) a construction industry contractor;
- (D) a construction industry equipment dealer; or
- (E) any other person engaged in the construction industry.

(7) "Program" refers to the construction industry disaster volunteer program established by section 30 of this chapter.

(8) "Emergency management worker" includes any:

- (A) volunteer other than a person participating in the program; or
- (B) full-time or part-time paid or auxiliary employee of:
  - (i) the state;
  - (ii) another state, territory, or possession of the United States, or the District of Columbia;
  - (iii) the federal government;
  - (iv) any political subdivision of an entity referred to in items (i) through (iii); or
  - (v) any agency or organization;

who performs emergency management services at any location in Indiana subject to the order or control of, or under a request of, the state or any political subdivision of the state.

SECTION 26. IC 10-4-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The department shall prepare and maintain a state emergency operations plan and keep it current, which plan may include:

- (1) prevention and minimization of injury and damage caused by disaster;
  - (2) prompt and effective response to disaster;
  - (3) emergency relief;
  - (4) identification of areas particularly vulnerable to disaster;
  - (5) recommendations for:
    - (A) zoning;
    - (B) building;
    - (C) other land use controls;
    - (D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and
    - (E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;
- shall be disseminated to both the fire prevention and building safety commission and local authorities;
- (6) assistance to local officials in designing local emergency action plans;
  - (7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
  - (8) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
  - (9) organization of manpower and chains of command;
  - (10) coordination of federal, state, and local disaster activities;
  - (11) coordination of the state disaster plan with the disaster plans of the federal government; and
  - (12) other necessary matters.

(b) The department shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 10 of this chapter. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with subdivisions and agencies on a regularly scheduled basis, shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply, and may suggest revisions.

(c) In preparing and revising the state disaster plan, the department shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the department shall encourage them to seek advice from these sources.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the department or executive orders.

(e) The department shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;

- (2) procure and pre-position supplies, medicines, materials, and equipment;
- (3) promulgate standards and requirements for local and interjurisdictional disaster plans;
- (4) provide for mobile support units;
- (5) assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and programs of public information;
- (6) make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;
- (7) plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if in fact they are used provide for payment for use under terms and conditions agreed upon;
- (8) establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
- (9) establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
- (10) prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disaster;
- (11) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and
- (12) do other things necessary, incidental, or appropriate for the implementation of this chapter.

(f) The department shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The department shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the department shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The department shall make recommendations to the governor as appropriate.

**(g) The department shall develop a statewide mutual aid program and a statewide mutual aid agreement.**

SECTION 27. IC 10-4-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5.5. (a) As used in this section, "agreement" refers to the mutual aid agreement created under section 5(g) of this chapter.

(b) As used in this section, "party" means a unit or state agency that has entered the agreement.

(c) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(d) The agreement must be a contract that provides for the following:

- (1) The procedures for the provision of mutual aid.
- (2) The term of the agreement and the method by which the agreement may be rescinded or terminated by a party before the termination date.
- (3) The terms and conditions governing reimbursement for any assistance provided.
- (4) The terms and conditions governing insurance.
- (5) The terms and conditions governing the assignment of liability. A party to the agreement is not liable for a claim made against or arising out of conduct of any other party to the agreement or the personnel of another party.
- (6) The role of the department.
- (7) Other terms and conditions needed to implement a statewide mutual aid program.

(e) Whenever an employee of a party is rendering outside aid under the authority of an agreement, the employee has the same powers, duties, rights, privileges, and immunities as if the employee were performing the duties within the employee's normal jurisdiction.

(f) A mutual aid arrangement or agreement entered by a unit

**under IC 36-1-7 before July 1, 2002, remains valid after July 1, 2002.**

SECTION 28. IC 10-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) All functions under this chapter and all other activities relating to emergency management are governmental functions.

(b) Neither:

- (1) the state; ~~nor~~
- (2) any political subdivision of the state; ~~nor~~
- (3) any other agencies of the state or political subdivision of the state; ~~nor~~
- (4) except in cases of willful misconduct, gross negligence, or bad faith, any:

**(A) construction industry professional who is participating in the program;**

**(B) person employing a construction industry professional who is participating in the program; or**

**(C) emergency management worker;**

complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state shall be liable for the death of or injury to persons or for damage to property as a result of any such an activity.

(c) This section shall not affect the right of any person to receive: (1) benefits to which the person would otherwise be entitled under:

- (A) this chapter;
- (B) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or
- (C) any pension law; or

(2) any benefits or compensation under any federal law.

~~(b) (d)~~ Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing duties as such, practice such professional, mechanical, or other skill during a disaster emergency.

~~(c) As used in this section, "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this state, or other states, territories, possessions, or the District of Columbia, or the federal government, or any neighboring country, or of any political subdivision of those entities, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision of the state.~~

~~(d) (e)~~ A volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

SECTION 29. IC 10-4-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) Subsection (c) does not apply to a construction industry professional who is participating in the program.

(b) No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who:

- (1) advocates a change by force or violence in the constitutional form of the government of the United States or the overthrow of any government in the United States by force or violence; or
- (2) has been convicted of or is under indictment or information charging any subversive act against the United States.

~~(b) (c)~~ Each individual who is appointed to serve in an organization for emergency management shall, before entering upon the individual's duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true

faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of emergency management organization) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(c) (d) For the purposes of this section, the director and the county emergency management directors:

(1) shall be authorized to administer the oath provided in subsection (b) (c) to emergency management and disaster personnel; and

(2) may delegate that authority to designated deputies and assistants as may be approved by the director.

SECTION 30. IC 10-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) Each person within this state shall conduct himself, keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not have volunteered his services or property without compensation.

(b) No personal services may be compensated by the state or any subdivision or agency of it, except under statute, local law or ordinance.

(c) Compensation for property shall be paid only if the property was commandeered or otherwise used in coping with a disaster emergency and:

(1) its use or destruction was ordered by the governor or a member of the disaster emergency forces of this state; or

(2) the property was volunteered as a part of the construction industry disaster volunteer program.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall make a claim for it, which claim shall be filed and adjudicated as provided in IC 197-32-11.

(e) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

SECTION 31. IC 10-4-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) The construction industry disaster volunteer program is established.

(b) The department shall establish and administer the program.

(c) The program consists of construction industry professionals who have volunteered their:

(1) personal services; or

(2) equipment, manned and unmanned;

or both, to assist the department at the time of a disaster emergency declared under section 7 of this chapter.

(d) A construction industry professional who has volunteered for the program shall provide personal services or equipment, or both, upon terms and conditions specified by the director and agreed to by the construction industry professional.

(e) A construction industry professional participating in the program is entitled to receive reimbursement of expenses actually incurred for:

(1) actual and necessary travel;

(2) subsistence;

(3) maintenance expenses; and

(4) other expenses as approved by the director;

while engaged in duties during a disaster emergency declared under section 7 of this chapter.

(f) Section 8(a) of this chapter applies to a construction industry professional who is participating in the program.

(g) The department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 32. IC 12-17.4-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The division shall deny a license when an applicant fails to meet the requirements for a license. The division shall deny a license to an applicant who has been convicted of any of the following felonies:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (~~IC 35-46-1-4(b)~~); (IC 35-46-1-4(d)).

(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

The division may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21-5-3.

(f) The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

SECTION 33. IC 20-5-2-8, AS AMENDED BY P.L.197-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) This section applies to:

(1) a school corporation; and

(2) an entity:

(A) with which the school corporation contracts for services; and

(B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation or entity may use information obtained under section 7 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds to not employ or contract with the individual:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(7) Aggravated battery (IC 35-42-2-1.5).

- (8) Kidnapping (IC 35-42-3-2).
  - (9) Criminal confinement (IC 35-42-3-3).
  - (10) A sex offense under IC 35-42-4.
  - (11) Carjacking (IC 35-42-5-2).
  - (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (13) Incest (IC 35-46-1-3).
  - (14) Neglect of a dependent as a Class B felony (**IC 35-46-1-4(b)(2)**) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (15) Child selling (~~IC 35-46-1-4(c)~~; **IC 35-46-1-4(d)**).
  - (16) Contributing to the delinquency of a minor (IC 35-46-1-8) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (17) An offense involving a weapon under IC 35-47 or **IC 35-47.5** unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (18) An offense relating to controlled substances under IC 35-48-4 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (20) An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5 unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
  - (21) An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.
- (c) An individual employed by a school corporation or an entity described in subsection (a) shall notify the governing body of the school corporation if during the course of the individual's employment the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 34. IC 22-12-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

- (1) Fireworks display permits issued under IC 22-11-14-2.
  - (2) Explosives magazine permits issued under ~~IC 22-14-4~~; **IC 35-47.5-4**.
  - (3) Design releases issued under IC 22-15-3.
  - (4) Certification of industrialized building systems and mobile structures under IC 22-15-4.
  - (5) Inspection of regulated amusement devices under IC 22-15-7.
  - (6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.
- (b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

SECTION 35. IC 22-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The commission

shall adopt fire safety rules that prohibit the following:

- (1) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) in quantities exceeding the maximum quantity specified by the commission.
- (2) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) at a site that is located less than the minimum distance specified by the commission from a railroad, highway, or other place of habitation or assembly.
- (3) The use of a receptacle, burning fixture or equipment, heating fixture or equipment, or structure for an explosive, flammable, or other combustible matter that does not meet the design and composition standards specified by the commission.
- (4) The keeping, storage, use, manufacture, sale, handling, transportation, or disposition of an explosive, flammable, or other combustible matter in violation of any other requirements specified by the commission.

SECTION 36. IC 22-13-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) This section applies to the following laboratories:

- (1) Analytical laboratories approved by the office of the state fire marshal under the alternative criteria established by the commission in its rules.
- (2) Laboratories that are:
  - (A) operated by a college, university, school, or other educational entity for the purpose of instruction or research; and
  - (B) approved by the office of the state fire marshal under the alternative criteria established by the commission in the rules.

(b) The commission may:

- (1) apply different rules to the manufacture of regulated explosives (**as defined in IC 35-47.5-2-13**) in a laboratory described in subsection (a) than apply to other places where regulated explosives (**as defined in IC 35-47.5-2-13**) are manufactured; and
- (2) adopt rules under IC 4-22-2 to exempt laboratories described in subsection (a) from the regulated explosive magazines permit requirement under ~~IC 22-14-4~~; **IC 35-47.5-4**.

SECTION 37. IC 31-19-11-1, AS AMENDED BY P.L.200-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
  - (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
  - (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
  - (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
  - (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
  - (6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:
    - (A) IC 31-19-6 indicating whether a record of a paternity determination; or
    - (B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;
- has been filed in relation to the child;
- (7) proper consent, if consent is necessary, to the adoption has been given; and
  - (8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c);

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health

and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling ~~(IC 35-46-1-4(b))~~: **(IC 35-46-1-4(d))**.
- (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5**.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

SECTION 38. IC 34-24-1-1, AS AMENDED BY P.L.17-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The following may be seized:

- (1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:
  - (A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:
    - (i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
    - (ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
    - (iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
    - (iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).
    - (v) Dealing in a counterfeit substance (IC 35-48-4-5).
    - (vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
    - (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
    - (viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
  - (B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.
  - (C) Any hazardous waste in violation of IC 13-30-6-6.
  - (D) **A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).**
- (2) All money, negotiable instruments, securities, weapons, communications devices, or any property **used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism** or commonly used as consideration for a

violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

- (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
- (B) used to facilitate any violation of a criminal statute; or
- (C) traceable as proceeds of the violation of a criminal statute.
- (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.
- (4) A vehicle that is used by a person to:
  - (A) commit, attempt to commit, or conspire to commit;
  - (B) facilitate the commission of; or
  - (C) escape from the commission of;
 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), **or an offense under IC 35-47 as part of or in furtherance of an act of terrorism**.
- (5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:
  - (A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
  - (B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
  - (C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
  - (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).
- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.**
- (b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).
- (c) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:
  - (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).
  - (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
  - (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
  - (4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
  - (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.
  - (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 39. IC 34-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) At the hearing,

the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the prosecuting attorney must also show by a preponderance of the evidence that a person who has an ownership interest of record in the bureau of motor vehicles knew or had reason to know that the vehicle was being used in the commission of the offense.

(b) If the prosecuting attorney fails to meet the burden of proof, the court shall order the property released to the owner.

(c) If the court enters judgment in favor of the state, or the state and a unit (if appropriate), the court, subject to section 5 of this chapter, shall order delivery to the law enforcement agency that seized the property. The court's order may permit the agency to use the property for a period not to exceed three (3) years. However, the order must require that, after the period specified by the court, the law enforcement agency shall deliver the property to the county sheriff for public sale.

(d) If the court enters judgment in favor of the state, or the state and a unit (if appropriate), the court shall, subject to section 5 of this chapter:

- (1) determine the amount of law enforcement costs; and
- (2) order that:

(A) the property, if it is not money or real property, be sold under section 6 of this chapter, by the sheriff of the county in which the property was seized, and if the property is a vehicle, this sale must occur after any period of use specified in subsection (c);

(B) the property, if it is real property, be sold in the same manner as real property is sold on execution under IC 34-55-6;

(C) the proceeds of the sale or the money be:

(i) deposited in the general fund of the state, or the unit that employed the law enforcement officers that seized the property; or

(ii) **deposited in the general fund of a unit if the property was seized by a local law enforcement agency of the unit for an offense, an attempted offense, or a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism;** and

(D) any excess in value of the proceeds or the money over the law enforcement costs be forfeited and transferred to the treasurer of state for deposit in the common school fund.

(e) If property that is seized under this chapter (or IC 34-4-30.1-4 before its repeal) is transferred:

(1) after its seizure, but before an action is filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal); or

(2) when an action filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal) is pending;

the person to whom the property is transferred must establish an ownership interest of record as a bona fide purchaser for value. A person is a bona fide purchaser for value under this section if the person, at the time of the transfer, did not have reasonable cause to believe that the property was subject to forfeiture under this chapter.

(f) If the property seized was an unlawful telecommunications device (as defined in IC 35-45-13-6) or plans, instructions, or publications used to commit an offense under IC 35-45-13, the court may order the sheriff of the county in which the person was convicted of an offense under IC 35-45-13 to destroy as contraband or to otherwise lawfully dispose of the property.

SECTION 40. IC 34-30-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. IC 10-4-1-8 (Concerning the state, political subdivisions, ~~and~~ emergency management workers, **and construction industry professionals** for injury, death, or property damage).

SECTION 41. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

- (1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), or

**IC 35-47.5-5;**

(2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), or **IC 35-47.5-5;** or

(3) a security risk as determined under section 10 of this chapter.

SECTION 42. IC 35-41-1-8, AS AMENDED BY P.L.156-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. "Deadly weapon" means the following:

(1) A loaded or unloaded firearm.

(2) A **destructive device**, weapon, device, taser (as defined in IC 35-47-8-3) or electronic stun weapon (as defined in IC 35-47-8-1), equipment, chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.

(3) An animal (as defined in IC 35-46-3-3) that is:

(A) readily capable of causing serious bodily injury; and

(B) used in the commission or attempted commission of a crime.

(4) A biological disease, virus, or organism that is capable of causing serious bodily injury.

SECTION 43. IC 35-41-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.5. **"Destructive device" has the meaning set forth in IC 35-47.5-2-4.**

SECTION 44. IC 35-41-1-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.7. **"Food processing facility" means a facility used to prepare or process animal, plant, or other food ingredients into food products intended for sale or distribution to the general public for human consumption.**

SECTION 45. IC 35-43-1-1, AS AMENDED BY P.L.88-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages:

(1) a dwelling of another person without the other person's consent;

(2) property of any person under circumstances that endanger human life;

(3) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars (\$5,000); or

(4) a structure used for religious worship without the consent of the owner of the structure;

commits arson, a Class B felony. However, the offense is a Class A felony if it results in either bodily injury or serious bodily injury to any person other than a defendant.

(b) A person who commits arson for hire commits a Class B felony. However, the offense is a Class A felony if it results in bodily injury to any other person.

(c) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages property of any person with intent to defraud commits arson, a Class C felony.

(d) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages property of another person without the other person's consent so that the resulting pecuniary loss is at least two hundred fifty dollars (\$250) but less than five thousand dollars (\$5,000) commits arson, a Class D felony.

SECTION 46. IC 35-43-1-2, AS AMENDED BY P.L.100-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the

offense is:

- (A) a Class A misdemeanor if:
- (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
  - (ii) the property damaged was a moving motor vehicle;
  - (iii) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way; or
  - (iv) the property damage or defacement was caused by paint or other markings; and

- (B) a Class D felony if:
- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);
  - (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
  - (iii) the damage is to a public record;
  - (iv) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; **or**
  - (v) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); **or**
  - (vi) **the damage causes substantial interruption or impairment of work conducted in a food processing facility.**

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:
  - (A) adjacent to; and
  - (B) owned or rented in common with;
 a structure or facility identified in subdivision (1) or (2); or
- (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 47. IC 35-43-2-2, AS AMENDED BY P.L.259-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
- (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; or

(6) knowingly or intentionally:

- (A) travels by train without lawful authority or the railroad carrier's consent; and
- (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, **on a food processing facility**, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written; or
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.
- (5) A person on the station grounds or in the depot of a railroad carrier:

- (A) as a passenger; or
- (B) for the purpose of transacting lawful business.

(6) A:

- (A) person; or
- (B) person's:
  - (i) family member;
  - (ii) invitee;
  - (iii) employee;
  - (iv) agent; or
  - (v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties."

Page 1, between lines 8 and 9, begin a new paragraph and insert: "SECTION 49. IC 35-44-2-2, AS AMENDED BY P.L.156-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

- (1) the person or another person has placed or intends to place an explosive, **a destructive device**, or other destructive substance in a building or transportation facility;
- (2) there has been or there will be tampering with a consumer product introduced into commerce; or
- (3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(c) A person who:

- (1) gives a false report of the commission of a crime or gives



false information in the official investigation of the commission of a crime, knowing the report or information to be false;  
 (2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;  
 (3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; or  
 (4) gives a false report concerning a missing child (as defined in IC 10-1-7-2) or gives false information in the official investigation of a missing child knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

SECTION 50. IC 35-45-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A person who recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor. **However, the offense is a Class D felony if it adversely affects airport security and is committed in an airport (as defined in IC 8-21-1-1) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar.**

SECTION 51. IC 35-45-6-1, AS AMENDED BY P.L.17-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Child exploitation (IC 35-42-4-4).
- (9) Robbery (IC 35-42-5-1).
- (10) Carjacking (IC 35-42-5-2).
- (11) Arson (IC 35-43-1-1).
- (12) Burglary (IC 35-43-2-1).
- (13) Theft (IC 35-43-4-2).
- (14) Receiving stolen property (IC 35-43-4-2).
- (15) Forgery (IC 35-43-5-2).
- (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- (17) Bribery (IC 35-44-1-1).
- (18) Official misconduct (IC 35-44-1-2).
- (19) Conflict of interest (IC 35-44-1-3).
- (20) Perjury (IC 35-44-2-1).
- (21) Obstruction of justice (IC 35-44-3-4).
- (22) Intimidation (IC 35-45-2-1).
- (23) Promoting prostitution (IC 35-45-4-4).
- (24) Promoting professional gambling (IC 35-45-5-4).

(25) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(26) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(27) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(28) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(30) Money laundering (IC 35-45-15-5).

**(31) A violation of IC 35-47-5-5."**

Page 2, between lines 29 and 30, begin a new paragraph and insert: "SECTION 53. IC 35-47-5-8, AS AMENDED BY P.L.104-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. A person who owns or possesses

~~(1) a machine gun or~~

~~(2) a bomb;~~

commits a Class C felony.

SECTION 54. IC 35-47-5-9, AS AMENDED BY P.L.104-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. A person who

~~(1) operates a loaded machine gun or~~

~~(2) hurls, drops, places, or detonates a bomb;~~

commits a Class B felony.

SECTION 55. IC 35-47-5-10, AS AMENDED BY P.L.104-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The provisions of sections 8 or 9 of this chapter shall not be construed to apply to any of the following:

(1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.

(2) Machine guns ~~or bombs~~ kept for display as relics and which are rendered harmless and not usable.

(3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.

(4) Persons lawfully engaged in the display, testing, or use of fireworks.

(5) Agencies of state government.

(6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, ~~bombs~~, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.

(7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.

(8) Persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

SECTION 56. IC 35-47-7-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. The:**

**(1) physician who treats a person; or**

**(2) administrator or the administrator's designee of the hospital or outpatient surgical center where a person was treated;**

**who knows or should know that the physician or hospital is treating a person for an injury that was inflicted while the person was making or using a destructive device shall report the case to a local law enforcement agency not more than seventy-two (72) hours after the person is treated. The report may be made orally or in writing."**

Page 3, between lines 21 and 22, begin a new paragraph and insert: SECTION 60. IC 35-47.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

## **ARTICLE 47.5. CONTROLLED EXPLOSIVES**

### **Chapter 1. Applicability**

**Sec. 1. This article does not apply to the following:**

- (1) Fertilizers, propellant actuated devices, or propellant**

activated industrial tools:

- (A) manufactured;
- (B) imported;
- (C) distributed; or
- (D) used;

for their designed purposes.

(2) A pesticide that is:

- (A) manufactured;
- (B) stored;
- (C) transported;
- (D) distributed;
- (E) possessed; or
- (F) used;

for its designed purposes or in accordance with Chapter 7 of Title 2, the federal Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163, as amended, and the federal Environmental Pesticide Control Act of 1972, P.L.92-516, as amended.

## Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Booby trap" means a device meant to cause death or bodily injury by:

- (1) hiding the device; or
- (2) activating the device by trip wires, switches, antisturbance, or other remote means.

Sec. 3. "Commission" refers to the fire prevention and building safety commission established by IC 22-12-2-1.

Sec. 4. (a) "Destructive device" means:

(1) an explosive, incendiary, or overpressure device that is configured as a:

- (A) bomb;
- (B) grenade;
- (C) rocket with a propellant charge of more than four (4) ounces;
- (D) missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce;
- (E) mine;
- (F) Molotov cocktail; or
- (G) device that is substantially similar to an item described in clauses (A) through (F);

(2) a type of weapon that may be readily converted to expel a projectile by the action of an explosive or other propellant through a barrel that has a bore diameter of more than one-half (1/2) inch; or

(3) a combination of parts designed or intended for use in the conversion of a device into a destructive device.

(b) The term does not include the following:

- (1) A pistol, rifle, shotgun, or weapon suitable for sporting or personal safety purposes or ammunition.
- (2) A device that is neither designed nor redesigned for use as a weapon.
- (3) A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.
- (4) A surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.

Sec. 5. "Detonator" means a device containing a detonating charge that is used to initiate detonation in an explosive, including the following:

- (1) Electric blasting caps.
- (2) Blasting caps for use with safety fuses.
- (3) Detonating cord delay connectors.
- (4) Blasting caps for use with a shock tube.
- (5) Improvised devices designed to function as a detonator.

Sec. 6. "Distribute" means the actual, constructive, or attempted transfer from one (1) person to another.

Sec. 7. "Explosives" means a chemical compound or other substance or mechanical system intended to produce an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion

capable of causing injury to persons or damage to property, including the substances designated in IC 35-47.5-3. The term does not include the following:

(1) A model rocket and model rocket engine designed, sold, and used to propel recoverable aero models.

(2) A paper cap in which the explosive content does not average more than twenty-five hundredths (0.25) grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the paper cap is used as a component of a destructive device.

Sec. 8. "Hoax device" or "replica" means a device or article that has the appearance of a destructive device or detonator.

Sec. 9. "Incendiary" means a flammable liquid or compound with a flash point not greater than one hundred fifty (150) degrees Fahrenheit, as determined by a Tagliabue or an equivalent closed cup device, including gasoline, kerosene, fuel oil, or a derivative of these substances.

Sec. 10. "Office" refers to the office of the state fire marshal.

Sec. 11. "Overpressure device" means:

- (1) a frangible container filled with an explosive gas or expanding gas that is designed or constructed to cause the container to break or fracture in a manner that is capable of causing death, bodily harm, or property damage; or
- (2) a container filled with an explosive gas or expanding gas or chemicals that generate an expanding gas.

Sec. 12. "Property" means real or personal property of any kind, including money, choses in action, and other similar interests in property.

Sec. 13. (a) "Regulated explosive" includes:

- (1) a destructive device; and
- (2) an explosive.

(b) The term does not include the following:

(1) An explosive in a manufactured article that is designed and packaged in a manner that is likely to prevent an explosion resulting in property damage or personal injury. A manufactured article to which this subdivision applies includes fixed ammunition for small arms, a firework, and a safety fuse match.

(2) Gasoline, kerosene, naphtha, turpentine, or benzene.

(3) An explosive that is being transported on or in a vessel, railroad car, or highway vehicle in conformity with the regulations adopted by the United States Department of Transportation.

(4) A blasting explosive that is transported or used for agricultural purposes and that is in a quantity that does not exceed two hundred (200) pounds.

(5) Ammonium nitrate compounds kept for mining purposes at coal mines regulated under IC 14-34.

## Chapter 3. Classification of Regulated Explosives

Sec. 1. The following materials are regulated explosives within the meaning of this article:

- (1) Acetylides of heavy metals.
- (2) Aluminum containing polymeric propellant.
- (3) Aluminum ophorite explosive.
- (4) Amatex.
- (5) Amatol.
- (6) Ammonal.
- (7) Ammonium nitrate explosive mixtures, cap sensitive.
- (8) Ammonium nitrate explosive mixtures, noncap sensitive.
- (9) Aromatic nitro-compound explosive mixtures.
- (10) Ammonium perchlorate explosive mixtures.
- (11) Ammonium perchlorate composite propellant.
- (12) Ammonium picrate (picrate of ammonia, explosive D).
- (13) Ammonium salt lattice with isomorphously substituted inorganic salts.
- (14) Ammonium tri-iodide.
- (15) ANFO (ammonium nitrate-fuel oil).
- (16) Baratol.
- (17) Baronol.
- (18) BEAF (1,2-bis (2,2-difluoro-2-nitroacetoxyethane)).
- (19) Black powder.
- (20) Black powder based explosive mixtures.
- (21) Blasting agents, nitro-carbo-nitrates, including noncap

sensitive slurry and water-gel explosives.

- (22) Blasting caps.
- (23) Blasting gelatin.
- (24) Blasting powder.
- (25) BTNEC (bis (trinitroethyl) carbonate).
- (26) Bulk salutes.
- (27) BTNEN (bis (trinitroethyl) nitramine).
- (28) BTTN (1,2,4 butanetriol trinitrate).
- (29) Butyl tetryl.
- (30) Calcium nitrate explosive mixture.
- (31) Cellulose hexanitrate explosive mixture.
- (32) Chlorate explosive mixtures.
- (33) Composition A and variations.
- (34) Composition B and variations.
- (35) Composition C and variations.
- (36) Copper acetylide.
- (37) Cyanuric triazide.
- (38) Cyclotrimethylenetrinitramine (RDX).
- (39) Cyclotetramethylenetetranitramine (HMX).
- (40) Cyclonite (RDX).
- (41) Cyclotol.
- (42) DATB (diaminotrinitrobenzene).
- (43) DDNP (diazodinitrophenol).
- (44) DEGDN (diethyleneglycol dinitrate).
- (45) Detonating cord.
- (46) Detonators.
- (47) Dimethylol dimethyl methane dinitrate composition.
- (48) Dinitroethyleneurea.
- (49) Dinitroglycerine (glycerol dinitrate).
- (50) Dinitrophenol.
- (51) Dinitrophenolates.
- (52) Dinitrophenyl hydrazine.
- (53) Dinitroresorcinol.
- (54) Dinitrotoluene-sodium nitrate explosive mixtures.
- (55) DIPAM.
- (56) Dipicryl sulfone.
- (57) Dipicrylamine.
- (58) DNNDP (dinitropentano nitrile).
- (59) DNPA (2,2-dinitropropyl acrylate).
- (60) Dynamite.
- (61) EDDN (ethylene diamine dinitrate).
- (62) EDNA.
- (63) Ednatol.
- (64) EDNP (ethyl 4,4-dinitropentanoate).
- (65) Erythritol tetranitrate explosives.
- (66) Esters of nitro substituted alcohols.
- (67) EGDN (ethylene glycol dinitrate).
- (68) Ethyl-tetryl.
- (69) Explosive conitrates.
- (70) Explosive gelatins.
- (71) Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
- (72) Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
- (73) Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
- (74) Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
- (75) Explosive mixtures containing sensitized nitromethane.
- (76) Explosive mixtures containing tetranitromethane (nitroform).
- (77) Explosive nitro compounds of aromatic hydrocarbons.
- (78) Explosive organic nitrate mixtures.
- (79) Explosive liquids.
- (80) Explosive powders.
- (81) Flash powder.
- (82) Fulminate of mercury.
- (83) Fulminate of silver.
- (84) Fulminating gold.
- (85) Fulminating mercury.
- (86) Fulminating platinum.
- (87) Fulminating silver.
- (88) Gelatinized nitrocellulose.
- (89) Gem-dinitro aliphatic explosive mixtures.

- (90) Guanyl nitrosamino guanyl tetrazene.
- (91) Guanyl nitrosamino guanylidene hydrazine.
- (92) Hexogene or octogene and a nitrated N-methylaniline.
- (93) Hexolites.
- (94) HMX (cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; octogen).
- (95) Hydrazinium nitrate/hydrazine/aluminum explosive system.
- (96) Hydrazoic acid.
- (97) Igniter cord.
- (98) Igniters.
- (99) Initiating tube systems.
- (100) KDNBF (potassium dinitrobenzo-furoxane).
- (101) Lead azide.
- (102) Lead mannite.
- (103) Lead mononitroresorcinolate.
- (104) Lead picrate.
- (105) Lead salts, explosive.
- (106) Lead styphnate (styphnate of lead, lead trinitroresorcinolate).
- (107) Liquid nitrated polyol and trimethylolethane.
- (108) Liquid oxygen explosives.
- (109) Magnesium ophorite explosives.
- (110) Mannitol hexanitrate.
- (111) MDNP (methyl 4,4-dinitropentanoate).
- (112) MEAN (monoethanolamine nitrate).
- (113) Mercuric fulminate.
- (114) Mercury oxalate.
- (115) Mercury tartrate.
- (116) Metriol trinitrate.
- (117) Minol-2 (40% TNT, 40% ammonium nitrate, 20% aluminum).
- (118) MMAN (monomethylamine nitrate); methylamine nitrate.
- (119) Mononitrotoluene-nitroglycerin mixture.
- (120) Monopropellants.
- (121) NIBTN (nitroisobutamettriol trinitrate).
- (122) Nitrate sensitized with gelled nitroparaffin.
- (123) Nitrated carbohydrate explosive.
- (124) Nitrated glucoside explosive.
- (125) Nitrated polyhydric alcohol explosives.
- (126) Nitrates of soda explosive mixtures.
- (127) Nitric acid and a nitro aromatic compound explosive.
- (128) Nitric acid and carboxylic fuel explosive.
- (129) Nitric acid explosive mixtures.
- (130) Nitro aromatic explosive mixtures.
- (131) Nitro compounds of furane explosive mixtures.
- (132) Nitrocellulose explosive.
- (133) Nitroderivative of urea explosive mixture.
- (134) Nitrogelatin explosive.
- (135) Nitrogen trichloride.
- (136) Nitrogen tri-iodide.
- (137) Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine).
- (138) Nitroglycide.
- (139) Nitroglycol (ethylene glycol dinitrate, EGDN).
- (140) Nitroguanidine explosives.
- (141) Nitroparaffins explosive grade and ammonium nitrate mixtures.
- (142) Nitronium perchlorate propellant mixtures.
- (143) Nitrostarch.
- (144) Nitro substituted carboxylic acids.
- (145) Nitrourea.
- (146) Octogen (HMX).
- (147) Octol (75% HMX, 25% TNT).
- (148) Organic amine nitrates.
- (149) Organic nitramines.
- (150) PBX (RDX and plasticizer).
- (151) Pellet powder.
- (152) Penthrite composition.
- (153) Pentolit.
- (154) Perchlorate explosive mixtures.
- (155) Peroxide based explosive mixtures.
- (156) PETN (nitropentaerythrite, pentaerythrite

tetranitrate, pentaerythritol tetranitrate).  
 (157) Picramic acid and its salts.  
 (158) Picramide.  
 (159) Picrate of potassium explosive mixtures.  
 (160) Picratol.  
 (161) Picric acid (manufactured as an explosive).  
 (162) Picryl chloride.  
 (163) Picryl fluoride.  
 (164) PLX (95% nitromethane, 5% ethylenediamine).  
 (165) Polynitro aliphatic compounds.  
 (166) Polyolpolynitrate-nitrocellulose explosive gels.  
 (167) Potassium chlorate and lead sulfocyanate explosive.  
 (168) Potassium nitrate explosive mixtures.  
 (169) Potassium nitroaminotetrazole.  
 (170) Pyrotechnic compositions.  
 (171) PYX (2,6-bis(picrylamino)-3,5-dinitropyridine).  
 (172) RDX (cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,6-trinitramine; hexahydro-1,3,5-trinitro-S-triazine).  
 (173) Safety fuse.  
 (174) Salutes (bulk).  
 (175) Salts of organic amino sulfonic acid explosive mixture.  
 (176) Silver acetylide.  
 (177) Silver azide.  
 (178) Silver fulminate.  
 (179) Silver oxalate explosive mixtures.  
 (180) Silver styphnate.  
 (181) Silver tartrate explosive mixtures.  
 (182) Silver tetrazene.  
 (183) Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer, cap sensitive.  
 (184) Smokeless powder.  
 (185) Sodatol.  
 (186) Sodium amatol.  
 (187) Sodium azide explosive mixture.  
 (188) Sodium dinitro-ortho-cresolate.  
 (189) Sodium nitrate-potassium nitrate explosive mixture.  
 (190) Sodium picramate.  
 (191) Special fireworks (as defined in IC 22-11-14-1).  
 (192) Squibs.  
 (193) Styphnic acid explosives.  
 (194) Tacot (tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene).  
 (195) TATB (triaminotrininitrobenzene).  
 (196) TATP (triacetone triperoxide).  
 (197) TEGDN (triethylene glycol dinitrate).  
 (198) Tetrazene (tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate).  
 (199) Tetranitrocarbazole.  
 (200) Tetryl (2,4,6 tetranitro-N-methylaniline).  
 (201) Tetrytol.  
 (202) Thickened inorganic oxidizer salt slurried explosive mixture.  
 (203) TMETN (trimethylolethane trinitrate).  
 (204) TNEF (trinitroethyl formal).  
 (205) TNEOC (trinitroethylorthocarbonate).  
 (206) TNEOF (trinitroethylorthoformate).  
 (207) TNT (trinitrotoluene, trotyl, trilit, triton).  
 (208) Torpex.  
 (209) Tridite.  
 (210) Trimethylol ethyl methane trinitrate composition.  
 (211) Trimethylolthane trinitrate-nitrocellulose.  
 (212) Trimonite.  
 (213) Trinitroanisole.  
 (214) Trinitrobenzene.  
 (215) Trinitrobenzoic acid.  
 (216) Trinitrocresol.  
 (217) Trinitro-meta-cresol.  
 (218) Trinitronaphthalene.  
 (219) Trinitrophenetol.  
 (220) Trinitrophloroglucinol.  
 (221) Trinitroresorcinol.  
 (222) Tritonal.  
 (223) Urea nitrate.

(224) Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates, cap sensitive.

(225) Water in oil emulsion explosive compositions.

(226) Xanthamonas hydrophilic colloid explosive mixture.

#### Chapter 4. Registration and Control

Sec. 1. The office shall carry out a program to periodically inspect places where regulated explosives are manufactured.

Sec. 2. (a) The office may order any person engaged in the manufacture or handling of a regulated explosive and any person with control over a place where regulated explosives are manufactured or handled to maintain insurance covering fire and explosion losses. The order is not effective until sixty (60) days after the date that notice of the order is received.

(b) The state fire marshal shall specify the insurance required under subsection (a) in an amount not less than ten thousand dollars (\$10,000) or more than two hundred fifty thousand dollars (\$250,000).

(c) Proof of the insurance required under this section must be maintained with the department of insurance.

(d) The insurance commissioner may exempt a person from the insurance requirements under this section if an applicant for the exemption submits proof that the applicant has the financial ability to discharge all judgments in the amount specified by the state fire marshal. The insurance commissioner may revoke an exemption under this subsection if the commissioner requires additional proof of financial ability and:

- (1) the exempted person fails to comply with the order; or
- (2) the insurance commissioner determines that the exempted person has failed to provide adequate proof of financial ability.

Sec. 3. The office shall carry out a program to periodically inspect places where regulated explosives are stored.

Sec. 4. (a) The office shall issue a regulated explosives magazine permit to maintain an explosives magazine to an applicant who qualifies under section 5 of this chapter.

(b) A permit issued under subsection (a) expires one (1) year after it is issued. The permit is limited to storage of the types and maximum quantities of explosives specified in the permit in the place covered by the permit and under the construction and location requirements specified in the rules of the commission.

Sec. 5. (a) To qualify for a regulated explosives permit, an applicant must:

(1) submit information on the form provided by the state fire marshal describing:

- (A) the location of the affected magazine;
- (B) the types and maximum quantities of explosives that will be kept in the place covered by the application; and
- (C) the distance that the affected magazine will be located from the nearest highway, railway, and structure that is also used as a place of habitation or assembly other than for the manufacture of explosives;

(2) demonstrate through an inspection that the magazine is constructed and located in accordance with the rules adopted by the commission; and

(3) pay the fee under IC 22-12-6-6.

(b) To qualify for the renewal of a regulated explosives permit, the applicant must pay the fee under IC 22-12-6-6.

Sec. 6. (a) This section does not apply to storage that is exempted from the requirements of this section in the rules adopted by the commission under IC 22-13-3.

(b) A person who:

- (1) stores a regulated explosive;
- (2) has control over a regulated explosive that is stored; or
- (3) has control over a place where a regulated explosive is stored;

without a regulated explosives magazine permit issued under this chapter that covers the storage commits a Class C infraction.

Sec. 7. A physician or hospital that knows or should know that the physician or hospital is treating a person for an injury inflicted while the person was making or using a destructive device shall report the injury to a local law enforcement agency under IC 35-47-7-5.

#### Chapter 5. Offenses Relating to Regulated Explosives

Sec. 1. Sections 2, 3, 4, 5, and 6 of this chapter do not apply to the following:

- (1) A person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator under the laws of the United States, as amended, or under Indiana law when the person is acting in accordance with the laws, regulations, and rules issued under federal or Indiana law.
- (2) A person who is issued a permit for blasting or surface coal mining by the director of the department of natural resources under IC 14-34 when the person is acting under the laws and rules of Indiana and any ordinances and regulations of the political subdivision or authority of the state where blasting or mining operations are being performed.
- (3) Fireworks (as defined in IC 22-11-14-1) and a person authorized by the laws of Indiana and of the United States to manufacture, possess, distribute, transport, store, exhibit, display, or use fireworks.
- (4) A law enforcement agency, a fire service agency, or an emergency management agency of Indiana, an agency or an authority of a political subdivision of the state or the United States, and an employee or authorized agent of the United States while in performance of official duties.
- (5) A law enforcement officer, a fire official, or an emergency management official of the United States or any other state if that person is attending training in Indiana.
- (6) The armed forces of the United States or of Indiana.
- (7) Research or educational programs conducted by or on behalf of a college, university, or secondary school that are:
  - (A) authorized by the chief executive officer of the educational institution or the officer's designee; or
  - (B) conducted under the policy of the educational institution;
 and conducted in accordance with the laws of the United States and Indiana.
- (8) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent published edition of the official United States Pharmacopoeia or the National Formulary.
- (9) Small arms ammunition and reloading components of small arms ammunition.
- (10) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.
- (11) An explosive that is lawfully possessed for use in legitimate agricultural or business activities.

Sec. 2. A person who knowingly or intentionally:

- (1) possesses;
- (2) manufactures;
- (3) transports;
- (4) distributes;
- (5) possesses with the intent to distribute; or
- (6) offers to distribute;

a destructive device, unless authorized by law, commits a Class C felony.

Sec. 3. A person who has been convicted of a felony by an Indiana court or a court of any other state, the United States, or another country and knowingly or intentionally:

- (1) possesses;
- (2) manufactures;
- (3) transports;
- (4) distributes;
- (5) possesses with the intent to distribute; or
- (6) offers to distribute;

a regulated explosive commits a Class C felony. However, the offense is a Class B felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 4. A person who knowingly or intentionally distributes a regulated explosive to a person who has been convicted of a felony by an Indiana court or a court of another state, the United States, or another country commits a Class C felony.

Sec. 5. A person who knowingly or intentionally distributes or offers to distribute:

- (1) a destructive device;
- (2) an explosive; or
- (3) a detonator;

to a person who is less than eighteen (18) years of age commits a Class B felony.

Sec. 6. A person who:

- (1) manufactures;
- (2) possesses;
- (3) transports;
- (4) distributes; or
- (5) uses;

a hoax device or replica with the intent to cause another to believe that the hoax device or replica is a destructive device or detonator commits a Class D felony.

Sec. 7. A person who knowingly or intentionally hinders or obstructs:

- (1) a law enforcement officer;
- (2) a fire official;
- (3) an emergency management official;
- (4) an animal trained to detect destructive devices; or
- (5) a robot or mechanical device designed or used by a law enforcement officer, fire official, or emergency management official;

of Indiana or of the United States in the detection, disarming, or destruction of a destructive device commits a Class B felony.

Sec. 8. A person who:

- (1) possesses;
- (2) transports; or
- (3) receives;

a destructive device or explosive with the knowledge or intent that it will be used to kill, injure, or intimidate an individual or to destroy property commits a Class A felony.

Sec. 9. A person who knowingly or intentionally uses an overpressure device commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 10. A person who knowingly or intentionally deploys a booby trap commits a Class D felony.

SECTION 61. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 4-20.5-6-6; IC 22-12-1-21; IC 22-14-4; IC 35-47-5-1.

SECTION 62. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "committee" refers to the interim study committee on terrorism established by this SECTION.

(b) There is established the interim study committee on terrorism. The committee shall study issues related to terrorism.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires January 1, 2003.

SECTION 63. [EFFECTIVE JULY 1, 2002] (a) After June 30, 2002, a reference to the powers, duties, or functions of security officers of the Indiana department of administration in any statute or rule shall be treated as a reference to the state police department established by IC 10-1-1-1.

(b) This SECTION expires July 1, 2005.

SECTION 64. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "security officer activity" refers to all activities of the department that relate to the department's security officers under IC 4.

(c) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(d) The security officer activity of the department is abolished, and all powers, duties, and functions adhering to the security officer activity of the department or the commissioner of the department are transferred to the state police.

(e) The property and records of the security officer activity of the department are transferred to the state police.

(f) This SECTION expires July 2, 2002.

SECTION 65. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "police employee" has the meaning set forth in IC 10-1-1-2.

(c) As used in this SECTION, "security officer activity" refers to all activities of the department that relate to the department's security officers under IC 4.

(d) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(e) The special police employees of the state police assigned to security activities under IC 10-1-1-29 or IC 10-1-1-30, both as added by this act, shall initially be composed of the employees of the department who are employed on June 30, 2002, as part of its security officer activity. Civilian employees of the department that support the security officer activity become employees of the state police.

(f) Except as provided in subsection (g), an employee of the department who becomes a member of the state police under subsection (e) on July 1, 2002:

(1) is entitled to have the employee's service under the department before July 1, 2002, included for the purpose of computing all applicable employment rights and benefits with the security section;

(2) is a member of the state retirement fund or pension plan in which the employee was a member on June 30, 2002; and  
(3) if the employee was covered on June 30, 2002, by a labor agreement to which the state is a party, shall continue to be subject to the terms and conditions of the agreement and any successor labor agreements entered into by the state.

(g) An employee of the department who:

(1) becomes a member of the state police under subsection (e); and

(2) becomes a state police officer after fulfilling the law enforcement training requirements and all other requirements of the state police department;

is not entitled to have the employee's service under the department or the security section included for the purpose of computing all applicable employment rights and benefits as a state police officer.

(h) Positions of the department that are used to perform, or are in support of, the security officer activity that are vacant on June 30, 2002, are transferred to the state police.

(i) This subsection does not apply to an employee described in subsection (g). The salary of an employee of the department who becomes a member of the state police under subsection (e) does not change upon transfer to the state police.

(j) This subsection does not apply to an employee described in subsection (g). An employee of the department on June 30, 2002, who becomes a member of the state police under subsection (e) has the same rank the employee held on June 30, 2002.

(k) All leases and obligations entered into by the department related to the activities of the department's security officers under IC 4 before July 1, 2002, that are legal and valid before July 1, 2002, are legal and valid after June 30, 2002.

SECTION 66. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "security officer activity" refers to all activities of the Indiana department of administration that relate to the department's security officers under IC 4.

(b) Any appropriations made to the Indiana department of administration for security officer activity or in support of security officer activity are transferred to the state police department established by IC 10-1-1-1, as added by this act.

(c) This SECTION expires July 1, 2003.

SECTION 67. [EFFECTIVE JULY 1, 2002] This act does not affect the legality of an enforcement action, including an arrest, performed by a security officer of the Indiana department of administration before July 1, 2002.

SECTION 68. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "officer" means a person who is:

(1) a security officer with the Indiana department of administration on June 30, 2002; and

(2) an employee of the state police department assigned to

security activities after June 30, 2002; under the provisions of this act.

(b) The superintendent of the state police department shall make available to an officer law enforcement training:

(1) required by the superintendent; and

(2) at a time that enables the officer to complete the training not later than July 1, 2003.

(c) This SECTION expires July 2, 2003.

Page 3, line 22, after "2002]" insert "IC 35-43-1-2, IC 35-43-2-2, IC 35-45-1-3,".

Page 3, after line 25, begin a new paragraph and insert:

"SECTION 70. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-24-6-2, as amended by this act, the bureau of motor vehicles commission shall carry out the duties imposed upon it under IC 9-24-6-2, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-24-6-2.

(2) December 31, 2002.

SECTION 71. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 10-4-1-30(g), as added by this act, the state emergency management agency shall carry out the duties imposed upon it by IC 10-4-1-30, as added by this act, under interim written guidelines approved by the director.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 10-4-1-30(g).

(2) June 30, 2003.

SECTION 72. [EFFECTIVE JULY 1, 2002] (a) The general assembly finds that the state needs the construction, equipping, renovation, refurbishing, or alteration of communications system infrastructure (as defined in IC 5-26-5-1, as added by this act).

(b) The general assembly finds that the state will have a continuing need for use and occupancy of the communications system infrastructure described in subsection (a). The general assembly authorizes the state office building commission to provide the communications system infrastructure described in subsection (a) under IC 4-13.5-1 and IC 4-13.5-4, including the borrowing of money or the issuance and sale of bonds, or both, under IC 4-13.5-4.

SECTION 73. An emergency is declared for this act.

Renumber all SECTIONS consecutively.

(Reference is to HB 1001 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

MOSES, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1012, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 17, strike "In making the final determination of the".

Page 4, line 18, strike "sentence after receiving the jury's recommendation, the court".

Page 4, line 18, delete "shall".

Page 4, strike lines 19 through 20 and insert "After receiving the jury's recommendation, the court shall make a final determination of the sentence. However, before a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant. After the statement is given, the court shall pronounce sentence."

(Reference is to HB 1012 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

DVORAK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1019, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 2.

COOK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1027, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

KUZMAN, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 2.

KUZMAN, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1065, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10.2-5-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 32. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2002, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) after July 1, 1995, and before July 2, 2000, shall be increased by one percent (1%);

(2) after July 1, 1977, and before July 2, 1995, shall be increased by two percent (2%); and

(3) before July 2, 1977, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law."

Renumber all SECTIONS consecutively.

(Reference is to HB 1065 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 2.

BAUER, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1071, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "public".

Page 1, line 4, delete "or private roads,".

Page 1, line 4, strike "streets, and".

Page 1, line 7, after "(b)" insert "After a request has been made at a public meeting or by certified mail to the legislative body (as defined in IC 36-1-2-9) from the property owner, a local authority may adopt by ordinance additional traffic regulations with respect to a private road within the authority's jurisdiction. The ordinance:

(1) must require a contractual agreement between the local authority and property owner of the private road setting forth the terms and responsibilities of the additional traffic regulations;

(2) must require the contractual agreement required under subdivision (1) to be recorded after passage of the ordinance in the office of the recorder of the county in which the private road is located; and

(3) may not conflict with or duplicate state law.

(c)".

Page 1, line 12, delete "public or".

Page 1, line 12, after "roads" delete ", ,".

Page 1, line 12, strike "streets,".

Page 1, line 13, after "jurisdiction" insert ", in accordance with section 2 of this chapter,".

Page 2, line 30, strike "exclusively".

Page 2, line 31, delete ", ,".

Page 2, line 31, strike "including".

Page 2, line 31, delete "public or" and insert "and".

Page 2, line 32, strike "streets or".

(Reference is to HB 1071 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

COOK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1073, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning family law and juvenile law and to make an appropriation.

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 37.

Renumber all SECTIONS consecutively.

(Reference is to HB 1073 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

STURTZ, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1077, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 2. IC 33-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except for the state share prescribed by IC 33-19-7-1 for semiannual distribution, and as provided under IC 33-17-1-4(e), **IC 33-19-7-1(g)**, and IC 33-19-6-1.5, within thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to:

(1) the county auditor, if the clerk is a clerk of a circuit court; or

(2) the city or town fiscal officer, if the clerk is the clerk of a city or town court.

(b) If part of the fee is collected on behalf of another person for service as a juror or witness, the county auditor or city or town fiscal officer shall forward that part of the fee to the person within forty-five (45) days after the auditor or fiscal officer receives the claim for the fee.

(c) Except for amounts deposited in a user fee fund established under IC 33-19-8, the county auditor shall distribute fees received from the clerk to:



(1) the county treasurer for deposit in the county general fund, if the fee belongs to the county; and

(2) the fiscal officer of a city or town, if the fee belongs to the city or town under IC 33-19-7-3.

(d) Except for amounts deposited in a user fee fund established under IC 33-19-8, the city or town fiscal officer shall deposit all fees received from a clerk in the treasury of the city or town.

(e) The clerk shall forward the state share of each fee to the state treasury at the clerk's semiannual settlement for state revenue.

**SECTION 3. IC 33-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 5. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk.

(b) The clerk shall collect a fee in addition to support and maintenance payments. The fee is:

(1) twenty dollars (\$20) for the calendar year in which the initial order is entered, unless the first payment is due after June 30 of that calendar year;

(2) ten dollars (\$10) for the calendar year in which the initial order was entered, if the first payment is due after June 30 of that calendar year; and

(3) in each subsequent year in which the initial order or a modified order is in effect, twenty dollars (\$20) if the fee is paid before February 1, or thirty dollars (\$30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-17-1-4(e) and **IC 33-19-7-1(g)**, the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-19-1-3(a).

**SECTION 4. IC 33-19-7-1, AS AMENDED BY P.L.183-2001, SECTION 13, AND AS AMENDED BY P.L.280-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-3(a) (juvenile costs fees).

(4) IC 33-19-5-4(a) (civil costs fees).

(5) IC 33-19-5-5(a) (small claims costs fees).

(6) IC 33-19-5-6(a) (probate costs fees).

(7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

~~(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee.~~

~~(f)~~ (e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

~~(g)~~ (f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

**(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:**

**(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-19-6-5.**

**(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-19-6-5 that is not reimbursable to the county at the federal financial participation rate.**

**The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-19-6-5 that is reimbursable to the county at the applicable federal financial participation rate."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1077 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

STURTZ, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1081, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 5 through 30, begin a new paragraph and insert:

**"SECTION 3. IC 36-8-11-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 27. (a) A fire protection district shall pay for the care of a full time, paid firefighter who suffers:**

**(1) an injury; or**

**(2) contracts an illness;**

**during the performance of the firefighter's duties.**

**(b) The fire protection district shall pay for the following expenses incurred by a firefighter described in subsection (a):**

**(1) Medical and surgical care.**

**(2) Medicines and laboratory, curative, and palliative**

agents and means.

(3) X-ray, diagnostic, and therapeutic service, including service provided during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the fund used by the fire protection district for payment of the costs attributable to providing fire protection services in the fire protection district.

(d) A fire protection district that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for:

(1) an injury sustained because of; or

(2) an illness caused by;

the third party. The fire protection district's cause of action under this subsection is in addition to, and not instead of, the cause of action of the firefighter against the third party."

Page 3, line 33, after "care of a" insert "full time, paid".

Page 4, line 6, delete "the general fund of".

Page 4, line 6, delete "township." and insert "township firefighting fund established by section 4 of this chapter."

Page 4, line 16, after "care of a" insert "full time, paid".

Page 4, line 31, delete "general".

Page 4, line 31, delete "of" and insert "used by".

Page 4, line 31, delete "unit." and insert "unit for payment of the costs attributable to providing fire protection services in the provider unit."

Renumber all SECTIONS consecutively.

(Reference is to HB 1081 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 4.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1088, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

COOK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1101, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 13 and 14, begin a new paragraph and insert: "SECTION 2. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 48.5. "Testing authority" means an independent test authority as described in:

(1) Appendix L of the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued by the Federal Election Commission in January 1990; or

(2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.

SECTION 3. IC 3-5-2-50.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 50.4. "Voter's bill of rights" refers to the statement prescribed by the commission under IC 3-5-8.

SECTION 4. IC 3-5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

#### Chapter 8. The Voter's Bill of Rights

Sec. 1. The commission shall prescribe a statement of the rights

of a voter in Indiana that shall be known as "the voter's bill of rights".

Sec. 2. The statement required by section 1 of this chapter must contain the following:

(1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.

(2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.

(3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.

(4) A statement describing how a voter who is challenged at the polls may be permitted to vote.

(5) A statement informing the voter what assistance is available to assist the voter at the polls.

(6) A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.

(7) A statement describing which voters will be permitted to vote at the closing of the polls.

(8) Other information that the commission considers important for a voter to know.

Sec. 3. The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

Sec. 4. The secretary of state or other state agency posting election information on the state's Internet site shall include the voter's bill of rights on the site.

Sec. 5. Not later than thirty (30) days before a primary, general, or municipal election, the secretary of state shall request Indiana news media to include a copy of the voter's bill of rights as part of election coverage or in public service announcements."

Page 8, between lines 4 and 5, begin a new paragraph and insert: "SECTION 13. IC 3-11-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided in this chapter, to be approved for use in Indiana, a voting system shall meet the standards established by the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued by the Federal Election Commission on January 25, 1990.

(b) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (a). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (a)."

Page 9, line 27, strike "3" and insert "15".

Page 9, delete lines 33 through 42.

Page 10, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

(Reference is to HB 1101 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

KROMKOWSKI, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1104, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, delete "IC 36-5-2-6.5(6);" and insert "IC 36-5-2-6.5(4);".

Page 2, line 13, delete "IC 36-5-2-6.5(6)." and insert "IC 36-5-2-6.5(4)."

Page 2, line 17, delete "IC 36-5-2-6.5(6);" and insert "IC 36-5-2-6.5(4);".

Page 2, line 22, delete "IC 36-5-2-6.5(6)." and insert "IC 36-5-2-6.5(4)."

Page 3, line 8, delete "IC 36-5-2-6.5(6);" and insert

"IC 36-5-2-6.5(4)."

Page 3, line 29, delete "IC 36-5-2-6.5(6)." and insert "IC 36-5-2-6.5(4)."

Page 3, line 34, delete "IC 36-5-2-6.5(6)" and insert "IC 36-5-2-6.5(4)".

Page 3, line 42, delete "IC 36-5-2-6.5(6)." and insert "IC 36-5-2-6.5(4)."

Page 4, line 3, delete "IC 36-5-2-6.5(6)." and insert "IC 36-5-2-6.5(4)."

Page 4, delete lines 27 through 30.

Page 4, line 31, delete "(4)" and insert "(3)".

Page 4, delete lines 33 through 34.

Page 4, line 35, delete "(6)" and insert "(4)".

Page 4, after line 36, begin a new paragraph and insert:

"SECTION 6. IC 36-7-11.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 11.4. Lincoln Way East Preservation**

##### **Sec. 1. (a) The purpose of this chapter is to preserve:**

- (1) from deterioration;
- (2) from improperly conceived or implemented change; and
- (3) for the continued health, safety, enjoyment, and general welfare of the citizens of Indiana;

a historic, scenic, aesthetically pleasing, and unique part of a street lying within Mishawaka constituting the backbone of a unique residential area.

(b) The general assembly intends, by passage of this chapter, to:

- (1) encourage private efforts to maintain and preserve that part of the street and other similar streets and areas in Indiana;
- (2) promote orderly and proper land usage; and
- (3) preserve significant tourist attractions of historical and economic value in Indiana;

by limiting and restricting unhealthful, unsafe, unaesthetic, or other use of unique areas that would be inconsistent with their character as tourist attractions and with the general welfare of the public.

Sec. 2. As used in this chapter, "bordering property" means a parcel of land any part of which lies within one hundred (100) feet from any part of the right-of-way of Lincoln Way East.

Sec. 3. As used in this chapter, "commission" refers to the Lincoln Way East preservation commission established by this chapter.

Sec. 4. As used in this chapter, "department" refers to the Mishawaka planning department.

Sec. 5. As used in this chapter, "interested party" means any of the following:

- (1) The governor.
- (2) The Indiana department of transportation.
- (3) The department of natural resources.
- (4) The executive of Mishawaka.
- (5) Each owner or occupant owning or occupying Lincoln Way East or bordering property to a depth of two (2) ownerships of the perimeter of the property.
- (6) An owner, occupant, or other person having a legal or equitable interest in a property on Lincoln Way East.
- (7) The department.

Sec. 6. As used in this chapter, "Lincoln Way East" refers to that part of an east-west street in the city of Mishawaka, St. Joseph County, known as Lincoln Way East, that lies:

- (1) east of South Brook Avenue; and
- (2) west of Capital Avenue;

at the points where South Brook Avenue and Capital Avenue intersect with Lincoln Way East.

Sec. 7. As used in this chapter, "notice" means written notice:

- (1) served personally upon the person, official, or office entitled to the notice; or
- (2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, to the "Occupant" at the address of the Lincoln Way East or bordering property occupied by the person.

(E) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in the offices of the township assessors in St. Joseph County.

(F) The department.

Sec. 8. As used in this chapter, "occupant" means a person:

(1) occupying:

(A) under a written lease; or

(B) as an owner; and

(2) using for residential purposes;

a residential dwelling located on Lincoln Way East or bordering property.

Sec. 9. As used in this chapter, "owner" means a person who owns a legal or an equitable interest in Lincoln Way East or bordering property.

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a partnership, an association, a trust, a governmental body or agency, or other entity, public or private, capable of entering into an enforceable contract.

Sec. 11. (a) The Lincoln Way East preservation commission is established.

(b) The commission consists of one (1) owner from each property located on Lincoln Way East.

(c) Members of the commission serve without compensation.

(d) The members of the commission shall elect a chairperson, vice chairperson, and treasurer from among the members of the commission.

Sec. 12. (a) The commission shall prepare, adopt, and promulgate the rules and regulations that are necessary, desirable, or convenient to the orderly administration of commission affairs and to the implementation of this chapter according to its intent and purpose. The rules and regulations shall be made available in writing or electronically to any person requesting a copy.

(b) Notices, petitions, requests, or other written materials to be filed with the commission shall be filed with the department and directed to the attention of the commission. The department shall:

(1) maintain; and

(2) make available for public inspection;

all records of the commission at the offices of the department.

(c) The city attorney for the city of Mishawaka, or a deputy city attorney selected by the city attorney, is the attorney for the commission. The commission may employ other legal counsel that the commission considers necessary, convenient, or desirable.

(d) The rules and regulations of the commission must specify a time for holding regular meetings to consider any matters properly coming before the commission. The commission shall regularly meet at the designated time if there is any matter requiring consideration or determination as specified in this chapter.

Sec. 13. (a) A public officer or office entitled to receive notice may designate in writing filed with the commission alternate or additional persons to whom notice required to be served upon the officer or office shall also be served. The commission shall maintain a complete list of the persons and their addresses.

(b) A person, an official, or an office that is not served notice in the manner prescribed by this chapter is not considered

properly notified unless the person has waived notice in writing.

Sec. 14. A person desiring the commission to consider or determine any matter that is within the commission's jurisdiction under this chapter must, at least thirty (30) days before a regular meeting date of the commission upon which the person desires the commission to determine or consider the matter, file with the commission a petition that does the following:

- (1) Specifies in detail the matter the petitioner desires the commission to consider or determine.
- (2) Requests that the matter be placed upon the commission's docket for matters to be considered and determined at the meeting.

Sec. 15. (a) The chairperson of the commission:

- (1) may, in the chairperson's discretion; or
- (2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

- (1) not less than thirty (30); and
- (2) not more than forty-five (45);

days after the filing of the petition.

Sec. 16. (a) For good cause shown, the chairperson of the commission may, at or before a regular or special meeting, continue any matter docketed for consideration or determination at the meeting until:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

(b) The commission may, before a hearing on a petition filed with the commission, require the person filing the petition, or a person whose interests appear adverse to those of the petitioner, to file with the commission before the hearing the following:

- (1) Maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or any other technical or graphic materials.
- (2) Additional information concerning the petitioner's or the adverse person's intentions or interest with respect to Lincoln Way East or bordering property.
- (3) Any other additional information that the commission considers relevant to the matters concerning the petition.

Sec. 17. (a) A quorum of the commission consists of a majority of the commission. A quorum must be present for a public hearing on and the determination of a matter coming before the commission for which a public hearing is required under this chapter.

(b) Except as otherwise provided in this chapter, a majority vote of the members of the commission is required for the commission to take action.

(c) A member of the commission may abstain from voting on a matter if the member states the reasons in the record.

(d) If by virtue of the abstention of a member of the commission, there is not present at a hearing upon a matter at least a majority of the members of the commission able to vote on the matter, the chairperson shall redocket the matter for a hearing or rehearing at:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

Sec. 18. (a) Upon the conclusion of the hearing on a matter and before the voting, the commission members shall, if requested by:

- (1) the petitioner;
- (2) an interested party; or
- (3) a commission member;

deliberate in private before voting.

(b) The commission shall, before voting, consider conditions proposed to the commission at the hearing by a person, including a commission member, concerning the restrictions, limitations, commitments, or undertakings that might be required by the commission as the condition of a vote favorable to the petitioner.

(c) The commission may:

- (1) on the commission's own motion; or
- (2) at the request of a person;

before voting on a matter, continue the matter to a future meeting so that the petitioner and a person appearing adverse to the petitioner might privately agree upon the restrictions, limitations, commitments, or undertakings to be proposed to the commission as a condition to a vote by the commission favorable to the petitioner.

Sec. 19. (a) Not later than thirty (30) days after a vote by the commission finally determining a matter, the commission shall enter a written final order stating the following:

- (1) The names of the members present and voting.
- (2) The total votes cast.
- (3) The basic facts found by the members whose vote for or against the petitioner determined the matter.

(b) If a tie vote occurs, the petition is considered to be determined adversely to the petitioner, with the members casting a vote adverse to the petitioner considered to be the majority.

Sec. 20. (a) If the commission determines affirmatively a matter conditioned upon:

- (1) the observance by a person of a restriction or limitation; or
- (2) the commitment made by or the undertaking of a person;

the commission shall, not later than ten (10) days after the vote determining the matter conditionally, enter a temporary order setting forth the restriction, limitation, commitment, or undertaking.

(b) The commission shall enter a final order approving the petition upon and after a hearing at which the petitioner must satisfy the commission that the restriction, limitation, commitment, or undertaking has been formalized so that an interested party may enforce the restriction, limitation, commitment, or undertaking in a private action.

Sec. 21. (a) Not later than five (5) days after the commission has determined a matter by vote, a party who appeared at the hearing shall, upon request of the commission, file with the commission a proposed temporary or final order.

(b) A proposed final order must state in detail the basic facts that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter.

(c) A proposed temporary order must state the basic facts:

- (1) that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter; and
- (2) upon which the commission could properly have required a restriction, a limitation, a commitment, or an undertaking as a condition to a final affirmative determination of the matter.

Sec. 22. (a) The commission shall keep complete minutes of meetings. The minutes must reflect the following:

- (1) Action taken by the commission.
- (2) The reasons for the action.
- (3) The factors considered by the commission in taking the action.

(b) Copies of the minutes of a meeting shall be provided to a person requesting a copy.

(c) An interested party who desires a transcript of a matter heard by the commission may, at the interested party's expense, have a transcript prepared.

Sec. 23. (a) The commission shall by rule set fees to be paid by a person filing a petition with the commission. If the commission has not set a fee by rule for a type of petition, the fee is twenty-five dollars (\$25).

(b) A person filing a petition with the commission shall pay the fee required for the filing to the department. The department shall pay the fee to the treasurer of the commission.

(c) The department has no duty regarding the fees collected under this section except those imposed under subsection (b). Fees collected under this section:

- (1) do not belong to Mishawaka; and
- (2) are not subject to any of the following:

- (A) IC 5-11-10.
- (B) IC 36-2-6.
- (C) IC 36-3.
- (D) IC 36-4-8.

(d) The commission may accept money from any source for use in administering this chapter.

Sec. 24. (a) A person may not construct on Lincoln Way East property a structure or feature or reconstruct, alter, or demolish Lincoln Way East property unless the following conditions have been met:

- (1) The person has previously filed with the commission an application for a certificate of appropriateness in the form and with the plans, specifications, and other materials that the commission prescribes.
- (2) A certificate of appropriateness has been issued by the commission as provided in this section.

(b) After the filing of an application for a certificate of appropriateness, the commission shall determine whether the proposed construction, reconstruction, or alteration of the structure in question:

- (1) will be appropriate to the preservation of the area comprised of Lincoln Way East and bordering property; and
- (2) complies with the architectural and construction standards then existing in the area.

(c) In determining appropriateness, the commission shall consider, in addition to other factors that the commission considers pertinent, the historical and architectural style, general design, arrangement, size, texture, and materials of the proposed work and the relation of the proposed work to the architectural factor of other structures in the area. A permit for the construction, reconstruction, alteration, or demolition of a structure on Lincoln Way East is not valid unless the application for the permit is accompanied by a certificate of appropriateness.

(d) The issuance of or refusal to issue a permit is a final determination appealable under section 26 of this chapter. With respect to a certificate of appropriateness, the commission may, by rule or regulation, provide for:

- (1) the public hearings;
- (2) notice of the hearings; or
- (3) the filing of the application for the certificate;

that the commission considers necessary.

Sec. 25. (a) Each owner:

- (1) has a private right of action to:
  - (A) enforce; and
  - (B) prevent violation of; this chapter; and
- (2) may, with respect to Lincoln Way East or bordering property:
  - (A) restrain or enjoin, temporarily or permanently, a person from violating; and
  - (B) enforce by restraining order or injunction; this chapter.

(b) The powers described in subsection (a) include the following:

- (1) To enforce written commitments, agreements, or covenants made in accordance with or under this chapter.
- (2) To prevent and obtain full relief from a threatened or existing violation of this chapter.
- (3) To:
  - (A) prevent construction, reconstruction, alteration, or demolition work upon; and
  - (B) obtain full relief from work previously done upon;

Lincoln Way East property for which a certificate of appropriateness was required but was not issued by the commission. A showing that issuance of certificates of appropriateness for the work could not properly have been denied by the commission if a proper application had been made is a complete defense to an action under this subdivision.

- (4) To prevent further construction work upon and obtain full relief from construction work previously done upon Lincoln Way East property that fails in a substantial manner to comply with all the terms and conditions:

- (A) of a certificate of appropriateness issued by the commission; or
- (B) of the petition and documents filed with the commission upon which the commission is presumed to have based approval of the certificate.

(c) For purposes of obtaining relief sought under this section, it is not necessary to allege or prove irreparable harm or injury to a person or property. A person entitled to bring an action under this section is not required to post a bond unless the court, after a hearing, determines that a bond should be required in the interests of justice. A person who brings an action under this section is not liable to a person for any damages resulting from the bringing or prosecuting of the action unless the action was not brought:

- (1) in good faith; or
- (2) in the reasonable belief that:
  - (A) this chapter; or
  - (B) a commitment, an agreement, or a covenant entered into under this chapter;

had been or was about to be violated or breached.

(d) The person against whom an action is brought under subsection (a) is liable to the interested party bringing the action for reasonable attorney's fees and court costs if judgment is entered by the court against the person.

(e) An action arising under this section must be brought in the circuit or superior court of St. Joseph County, and a change of venue from the county is not permitted.

(f) The remedy provided in this section is not exclusive but is cumulative to any other remedies available.

Sec. 26. (a) A final determination by the commission is subject to judicial review. An interested party aggrieved by a determination may file with the circuit or superior court of St. Joseph County a verified petition for writ of certiorari stating that the determination is illegal in whole or part. The petition must be filed not later than sixty (60) days after the date of the final determination. A change of venue is not permitted in a cause of action arising under this section.

(b) Upon the filing of a petition for writ of certiorari, the petitioner shall have a copy of the petition served upon each interested party in the manner provided in this chapter for service of notice. Upon adequate showing by the petitioner that a copy of the petition has been served, the circuit or superior court shall enter an order directing the commission to show cause not later than thirty (30) days after the entry of the order why a writ of certiorari should not issue. If the commission or an interested party appearing in support of the commission's determination fails to show to the satisfaction of the court that a writ should not issue, the court may allow a writ directed to the commission. The writ must prescribe the time in which a return shall be made to the court. The time:

- (1) may not be less than twenty (20) days after the date of the issuance of the writ; and
- (2) may be extended by the court on application and on notice to all parties.

(c) The return to the writ of certiorari by the commission must contain copies of all filings, exhibits, and other matters presented to or considered by the commission in connection with the matter and the determination from which the appeal is taken, including a verbatim transcript of the proceedings at each public hearing that was held. The commission shall prepare the return at the expense of the party that filed the petition for certiorari. The return to the writ of certiorari must also show the grounds of the decision that was appealed.

(d) The court may decide and determine the sufficiency of the statements of illegality contained in the petition without further pleadings and may make a determination and enter judgment with reference to the legality of the decision of the commission on the facts set out in the return to the writ of certiorari. If the court determines that testimony is necessary for the proper disposition of the matter, the court may take evidence to supplement the evidence and facts disclosed by the return to the writ of certiorari. However, a review may not be by a trial de novo, and the court may not consider evidence that should properly or could have been presented to the commission. In passing on the

legality of the determination by the commission, the court may:

- (1) reverse;
- (2) affirm, wholly or in part; or
- (3) modify;

the determination of the commission brought up for review. Costs may not be allowed against the commission.

(e) Upon the filing of a petition under this section, the final determination of the commission with respect to which the petition is filed is considered without force and effect pending a final judgment by the court. If the final determination was made with respect to a petition for approval of a proposed rezoning or zoning variance, the approval by the commission is considered nonexistent pending final judgment.

Sec. 27. An appeal may be taken to the Indiana court of appeals from the final judgment of the court under section 26 of this chapter reversing, affirming, or modifying the determination of the commission in the same manner and upon the same terms, conditions, and limitations as appeals in other civil actions.

Sec. 28. This chapter is cumulative to and does not supersede, preempt, or invalidate a zoning, building, health, or other law, ordinance, or code in effect as of June 30, 2002, except to the extent the law, ordinance, or code is in irreconcilable conflict with this chapter. If an irreconcilable conflict exists, only those parts of the law, ordinance, or code that conflict with this chapter are inapplicable as the parts pertain to the subject matter of this chapter."

(Reference is to HB 1104 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 2.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used at a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with the combustion or use of coal; and
- (2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

- (1) research and development designed to increase use of Indiana coal; and
- (2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

(f) The commission has jurisdiction over transactions involving the purchase of clean coal technology from third parties, including the purchase of precombustion coal treated by gasification. The commission's jurisdiction includes the authority to review the terms of a transaction and determine whether the transaction is in the public interest.

SECTION 2. IC 8-1-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 83. (a) ~~No~~ This section does not apply to the following:

- (1) A corporation organized or operating under IC 8-1-13.
- (2) A corporation that:
  - (A) is organized under IC 23-17; and
  - (B) has members that are local district corporations (as defined in IC 8-1-13-23).

(b) As used in this section, "control" means the power to direct the management and policies of a public utility, utility company, or holding company through:

- (1) ownership of voting securities or stock;
- (2) the terms of a contract; or
- (3) other means.

The term does not include power to direct management and policies derived from holding an official position or corporate office with the public utility, utility company, or holding company. A person that owns, controls, or has the power to vote or the power to vote proxies that constitute at least twenty percent (20%) of the total vote power of a public utility, utility company, or holding company is presumed to have control of the public utility, utility company, or holding company.

(c) As used in this section, "holding company" means a company that has control over at least one (1) of the following:

- (1) A public utility (as defined in section 1 of this chapter).
- (2) A utility company.

(d) As used in this section, "person" means:

- (1) an individual;
- (2) a firm;
- (3) a corporation;
- (4) a company;
- (5) a partnership;
- (6) a limited liability company;
- (7) an association;
- (8) a trustee;
- (9) a lessee; or
- (10) a receiver.

(e) As used in this section, "reorganization" means a transaction that results in:

- (1) a change in the ownership of a majority of the voting capital stock of a public utility;
- (2) a change in the ownership or control of an entity that owns or controls a majority of the voting capital stock of a public utility;
- (3) the merger of two (2) or more public utilities; or
- (4) the acquisition by a public utility of substantially all the assets of another public utility.

(f) As used in this section, "utility company" means every corporation, company, partnership, limited liability company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment for the:

- (1) conveyance of telegraph or telephone messages;
- (2) production, transmission, delivery, or furnishing of heat, light, water, or power; or
- (3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that acquires, owns, or operates any of the foregoing facilities.

(g) A public utility, as defined in section 1 of this chapter, shall

may not do any of the following without approval of the commission after a hearing:

- (1) Sell, assign, transfer, lease, or encumber its franchise, works, or system to any other person, partnership, limited liability company, or corporation. ~~or~~
- (2) Contract for the operation of any part of its works or system by any other person, partnership, limited liability company, or corporation. ~~without the approval of the commission after hearing. And no such~~
- (3) Contract for or effect a reorganization of the public utility.
- (4) Acquire control of a public utility, utility company, or holding company.

(h) A person may not acquire control of a public utility or a holding company of a public utility without approval of the commission after a hearing.

(i) A holding company that controls one (1) or more public utilities may not acquire control of a utility company without approval of the commission after a hearing.

(j) A public utility, except temporarily or in case of emergency and for a period of not exceeding thirty (30) days, ~~shall~~ may not make any special contract at rates other than those prescribed in its schedule of rates theretofore filed with the commission, and in force, with any other utility for rendering any service to or procuring any service from such other utility, without the approval of the commission. It shall be lawful, however, for any utility to make a contract for service to or from another utility at rates previously filed with and approved by the commission and in force.

~~(k)~~ (k) The approval of the commission of the sale, assignment, transfer, lease, or encumbrance of a franchise or any part thereof under this section shall not revive or validate any lapsed or invalid franchise, or enlarge or add to the powers and privileges contained in the grant of any franchise or waive any forfeiture. No such public utility shall directly or indirectly purchase, acquire, or become the owner of any of the property, stock, or bonds of any other public utility authorized to engage or engaged in the same or a similar business, or operating or purporting to operate under a franchise from the same or any other municipality or under an indeterminate permit unless authorized so to do by the commission.

(l) The commission shall issue an order not later than one hundred eighty (180) days after a petition seeking approval is filed under this section. If the commission fails to issue an order within one hundred eighty (180) days after the petition is filed, the petition is considered approved.

~~(m)~~ (m) Nothing contained in this section shall prevent the holding of stock lawfully acquired before May 1, 1913, or prohibit, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking, or holding by the owner of a proportionate amount of the stock of any new corporation organized to take over at foreclosure or other sale, the property of the corporation whose stock has been thus surrendered or exchanged.

~~(n)~~ (n) Every contract by any public utility for the purchase, acquisition, assignment, or transfer to it of any of the stock of any other public utility by or through any person, partnership, limited liability company, or corporation without the approval of the commission shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract shall be effective for any purpose."

Page 2, line 12, after "Imposes" insert "on a utility, other than a telephone company (as defined in IC 8-1-2-88) that provides local exchange telephone service,".

Page 2, line 12, delete "of not more than twenty-five" and insert "of:

- (1) five thousand dollars (\$5,000) for an initial violation or noncompliance found under subsection (d); or
- (2) fifteen thousand dollars (\$15,000) for a second or subsequent violation or noncompliance found under subsection (d)."

Page 2, delete line 13.

Page 2, line 14, delete "noncompliance found under subsection (d)." and block left beginning with "For".

Page 2, line 41, after "(e)." insert "If the attorney general prevails in an action under this subsection, the attorney general

may recover reasonable attorney's fees and court costs."

Renumber all SECTIONS consecutively.

(Reference is to HB 1116 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 4.

FRY, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 24-3-2-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) Except as provided in subsection (c), a cigarette manufacturer or distributor may not do the following:

(1) As a condition of a retailer's receipt of a cigarette price, participation in a price or product promotion, or any compensation, rebate, or other inducement relating to a promotion, require any of the following:

(A) A retailer to allocate to the manufacturer or distributor a percentage, a fraction, or an absolute amount of the retailer's in-store or on-premises cigarette display, signage, or advertising space.

(B) A retailer to participate or not participate in a price, merchandising, or promotional program of another manufacturer or distributor.

(2) As a condition of a retailer's receipt of a monetary payment or other inducement require any of the following:

(A) A retailer to allocate to the manufacturer or distributor a percentage or fraction, as opposed to an absolute amount, of the retailer's in-store or on-premises cigarette display, signage, or advertising space.

(B) A retailer to participate or not participate in a price, merchandising, or promotional program of another manufacturer or distributor.

(C) A retailer to allocate a percentage, a fraction, or an absolute amount of the retailer's total in-store or on-premises space for cigarette display, signage, or advertising.

(b) A cigarette manufacturer or distributor may not provide a retailer with a monetary payment or other compensation to limit the area of the retailer's in-store or on-premises cigarette display, signage, or advertising space that is provided to another cigarette manufacturer or to a cigarette category.

(c) A cigarette manufacturer or distributor may provide a retailer with a monetary payment or other compensation for an absolute amount of the retailer's in-store or on-premises cigarette display, signage, or advertising space.

(d) A person who suffers damages because of an act or omission by a cigarette manufacturer or distributor under this section is entitled to compensation for actual damages, prejudgment interest, punitive damages, reasonable attorney's fees, and court costs.

SECTION 2. IC 35-46-1-11.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11.8. (a) This section does not apply to the following:

(1) A retail establishment that derives at least seventy-five percent (75%) of the establishment's revenue from tobacco and tobacco related products.

(2) A retail establishment that prohibits an individual who is less than eighteen (18) years of age to enter the establishment.

(b) A retail establishment may not offer for sale or display individual packages of cigarettes that allow a customer access to the cigarettes without the assistance of an employee of the retail establishment.

(c) A person who violates this section commits a Class C



infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(Reference is to HB 1117 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 6.

FRY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-7-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A unit may establish a housing authority if the fiscal body of the unit, by resolution, declares that there is a need for an authority in the unit.

(b) The determination as to whether or not there is a need for an authority may be made by the fiscal body:

- (1) on its own motion;
- (2) on the filing of a petition signed by twenty-five (25) residents of the unit and stating that there is a need for an authority in the unit; or
- (3) on receipt of an order from the division of family and children.

(c) A resolution may be passed under this section only after a public hearing. Notice of the time, place, and purpose of the hearing must be given by the fiscal body by publication in accordance with IC 5-3-1.

(d) The fiscal body of a unit may adopt a resolution declaring that there is need for a housing authority in the unit if it finds that:

- (1) unsanitary or unsafe dwelling accommodations are inhabited in the unit; or
- (2) there is a shortage of safe or sanitary dwelling accommodations available in the unit for persons of low income at rentals they can afford.

In determining whether dwelling accommodations are unsafe or unsanitary, the fiscal body may consider the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to inhabitants, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions in the buildings endanger life or property by fire or other causes.

(e) In any proceeding involving any contract of a housing authority, the authority shall be conclusively presumed to have become established and authorized to transact business and exercise its powers under this chapter on proof of the adoption of a resolution by the fiscal body declaring the need for the authority. The resolution is sufficient if it declares that there is a need for an authority and finds that either or both of the conditions listed in subsection (d) exist in the unit. A copy of the resolution certified by the clerk of the fiscal body is admissible in evidence in any proceeding.

(f) A fiscal body that adopts a resolution under this section

shall specify in the resolution whether the housing authority of the unit shall have five (5) commissioners or seven (7) commissioners."

Page 1, delete lines 6 through 17, begin a new line block indented and insert:

"(1) In a city, the fiscal body shall promptly notify the city executive of the adoption of the resolution. The executive shall then appoint either:

(A) five (5) persons:

- (i) one (1) of whom must be a person directly assisted by the housing authority, unless the housing authority is described in subsection (d); and
- (ii) not more than three (3) of whom may be of the same political party;

as commissioners of the housing authority; or

(B) seven (7) persons:

- (i) one (1) of whom must be a resident of a housing project under the jurisdiction of person directly assisted by the housing authority, unless the housing authority is described in subsection (d); and
- (ii) no more than four (4) of whom may be of the same political party;

as commissioners of the housing authority;

as specified under subsection (f) in the resolution adopted by the fiscal body of the city.

(2) In a town or county, the fiscal body shall appoint either:

(A) five (5) persons:

- (i) one (1) of whom must be a person directly assisted by the housing authority, unless the housing authority is described in subsection (d); and
- (ii) not more than three (3) of whom may be of the same political party;

as commissioners of the housing authority; or

(B) seven (7) persons:

- (i) one (1) of whom must be a person directly assisted by the housing authority, unless the housing authority is described in subsection (d); and
- (ii) no more than four (4) of whom may be of the same political party;

as commissioners of the housing authority;

as specified under subsection (f) in the resolution adopted by the fiscal body of the town or county."

Page 2, delete line 1.

Page 2, delete lines 7 through 19, begin a new paragraph and insert:

"(d) The provisions of subsections (a)(1) and (a)(2) requiring that one (1) commissioner of a housing authority be a person directly assisted by the housing authority do not apply to:

(1) a housing authority that:

- (A) has less than seventy-five (75) units;
- (B) provides at least thirty (30) days notice to the residents under the jurisdiction of the housing authority of the opportunity to serve as a housing authority commissioner by:

- (i) posting a notice in public areas under the jurisdiction of the housing authority; and
- (ii) sending a notice by first class mail to each resident under the jurisdiction of the housing authority;

(C) has not been notified by a resident of the resident's interest in being appointed a housing authority commissioner; and

(D) repeats the notification of the opportunity to serve as a housing authority commissioner as described in clause (B) to the residents under the jurisdiction of the housing authority:

- (i) upon the occurrence of each opening on the housing authority commission for a resident commission member; and
- (ii) at least once each year; or".

Page 2, delete lines 22 through 25.

Page 2, line 28, delete "subsection" and insert "subsections".

Page 2, line 28, after "(b)" insert "and (c)".

Page 2, line 31, after "(5)" insert "commissioners on July 1, 2001,

and elects to have seven (7)".

Page 2, line 31, strike "before".

Page 2, line 32, strike "July 1, 2001,".

Page 2, delete lines 36 through 40, begin a new line block indented and insert:

"the housing authority, ~~who~~ unless:

(A) the housing authority is not required to have a resident member under IC 36-7-18-5(d); or

(B) the housing authority already has a person directly assisted by the housing authority serving as a member of the authority.

The commissioner appointed under this subdivision ~~who~~ serves an initial term of one (1) year, and ~~who~~ may be reappointed."

Renumber all SECTIONS consecutively.

(Reference is to HB 1122 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission may issue a beer dealer's permit only to an applicant who is the proprietor of a drug store, ~~or~~ grocery store, **or package liquor store.**

(b) The commission may issue a beer dealer's permit to an applicant that is a foreign corporation if:

- (1) the applicant is duly admitted to do business in Indiana;
- (2) the sale of beer is within the applicant's corporate powers; and
- (3) the applicant is otherwise qualified under this title.

(c) The commission shall not issue a beer dealer's permit to a person who is disqualified under the special disqualifications. However, the special disqualification listed in ~~IC 7.1-3-4-2(13)~~ **IC 7.1-3-4-2(a)(13)** shall not apply to an applicant for a beer dealer's permit.

(d) Notwithstanding subsection (a), the commission may renew a beer dealer's permit for an applicant who:

- (1) held a permit before July 1, 1997; and
- (2) is the proprietor of a confectionery or a store that:
  - (A) is not a drug store, ~~or~~ grocery store, **or package liquor store;**
  - (B) is in good repute; and
  - (C) in the judgment of the commission, deals in merchandise that is not incompatible with the sale of beer.

SECTION 2. IC 7.1-3-12-5, AS AMENDED BY P.L.235-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
- (2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;
- (3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
- (4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;
- (5) is exempt from the provisions of IC 7.1-3-14;
- (6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery; ~~and~~
- (7) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; **and**

**(8) is entitled to purchase and sell bulk wine as set forth in this chapter.**

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) days in a calendar year.

SECTION 3. IC 7.1-3-12-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 7. (a) Except as provided in subsection (b), a farm winery may purchase annually a quantity of bulk wine that does not exceed the greater of the following:**

**(1) Five thousand five hundred (5,500) gallons.**

**(2) Fifty percent (50%) of the quantity of wine produced by fermentation by the winery during the previous year.**

**(b) This subsection applies to a farm winery that suffers a loss of wine inventory due to natural or manmade disaster. If the farm winery documents the inventory loss and obtains permission from the commission, the winery may purchase a quantity of bulk wine not greater than the sum of the following:**

**(1) The quantity of the winery's wine inventory loss.**

**(2) The quantity of bulk wine that may be purchased by the farm winery annually under subsection (a)."**

Page 2, delete lines 1 through 39.

Page 3, after line 25, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] **A new or renewal beer dealer permit issued or transferred to a package liquor store after June 30, 1997, and until the effective date of this act is legalized.**

SECTION 6. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1129 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1158, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 5 through 6 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective date in SECTION 8 with "[EFFECTIVE UPON PASSAGE]".

Page 3, delete lines 7 through 23, begin a new paragraph and insert:

"SECTION 7. IC 36-1-12.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The governing body shall:

**(1) provide to the department of commerce not more than sixty (60) days after the date of execution of the guaranteed energy savings contract:**

**(A) a copy of the executed guaranteed energy savings contract;**

**(B) the energy consumption costs before the date of execution of the guaranteed energy savings contract; and**

**(C) the documentation using industry engineering standards for:**

**(i) stipulated savings; and**

**(ii) related capital expenditures; and**

(2) annually report to the department of commerce, in accordance with procedures established by the department of commerce, the savings resulting in the previous year from the guaranteed energy savings contract or utility energy efficiency program."

Page 3, line 26, after "A" insert "**guaranteed energy savings**".

Page 3, line 41, after "The" insert "**guaranteed energy savings**".

Page 4, line 9, delete "an" and insert "**a guaranteed**".

Page 4, delete lines 10 through 17, begin a new line block indented and insert:

**"(1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed energy savings contract; and**

**(2) either:**

**(A) the improvement is necessary to conform to a law, a rule, or an ordinance; or**

**(B) an analysis within the guaranteed energy savings contract demonstrates that:**

**(i) there is an economic advantage to the political subdivision in implementing an improvement as part of the guaranteed energy savings contract; and**

**(ii) the savings justification for the improvement is documented by industry engineering standards."**

Page 4, between lines 19 and 20, begin a new paragraph and insert:

**"(c) An improvement to a historic property may be included in an energy savings contract if the improvement meets the United States Department of the Interior standards for the treatment of historic properties (36 CFR, Part 68 as in effect July 1, 2001)."**

(Reference is to HB 1158 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 2.

STEVENSON, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1186, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 18, nays 2.

BAUER, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1208, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 10.

Page 6, delete lines 3 through 36.

Renumber all SECTION consecutively.

(Reference is to HB 1208 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

KUZMAN, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 2.

STEVENSON, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

STURTZ, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1233, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

**SECTION 1. IC 12-7-2-51.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51.8. "Cross-indicated drug", for purposes of IC 12-15-35.5, has the meaning set forth in IC 12-15-35.5-2.**

**SECTION 2. IC 12-7-2-178.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 178.5. "Single source drug" for purposes of IC 12-15-35-35; has the meaning set forth in IC 12-15-35-35(a): means an outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.**

**SECTION 3. IC 12-15-35-35, AS AMENDED BY P.L.231-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) As used in this section; "single source drug" means a covered outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration; including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.**

**(b) (a) Before the board develops a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:**

**(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:**

**(A) impede the quality of patient care in the Medicaid program; or**

**(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.**

**(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least thirty (30) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:**

**(A) A statement of the date, time, and place at which the board meeting will be convened.**

**(B) A general description of the subject matter of the board meeting.**

**(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.**

**The board shall meet to review the formulary or the restriction on a single source drug at least thirty (30) days but not more than sixty (60) days after the notification.**

**(3) Ensure that:**

**(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and**

**(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.**

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.  
 (5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(e) (b) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(d) (c) The board shall consider:

- (1) health economic data;
- (2) cost data; and
- (3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

SECTION 4. IC 12-15-35.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 35.5. Prescription Drugs**

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

- (1) the Medicaid program under this article; and
- (2) the children's health insurance program under IC 12-17-6.

(b) This chapter does not apply to a formulary or prior authorization program operated by a managed care organization under a program described in subsection (a).

Sec. 2. As used in this chapter, "cross-indicated drug" means a drug that is used for a purpose generally held to be reasonable, appropriate, and within the community standards of practice even though the use is not included in the federal Food and Drug Administration's approved labeled indications for the drug.

Sec. 3. (a) Except as provided in subsection (b), the office may establish prior authorization requirements for drugs covered under a program described in section 1(a) of this chapter.

(b) The office may not require prior authorization for the following single source or brand name multisource drugs:

- (1) A drug that is classified as an antianxiety, antidepressant, or antipsychotic central nervous system drug in the most recent publication of Drug Facts and Comparisons (published by the Facts and Comparisons Division of J.B. Lippincott Company).
- (2) A drug that, according to:
  - (A) the American Psychiatric Press Textbook of Psychopharmacology;
  - (B) Current Clinical Strategies for Psychiatry;
  - (C) Drug Facts and Comparisons; or
  - (D) a publication with a focus and content similar to the publications described in clauses (A) through (C);
 is a cross-indicated drug for a central nervous system drug classification described in subdivision (1).
- (3) A drug that is:
  - (A) classified in a central nervous system drug category or classification (according to Drug Facts and Comparisons) that is created after the effective date of this chapter; and
  - (B) prescribed for the treatment of a mental illness (as defined in the most recent publication of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders).

(c) Except as provided under section 7 of this chapter, a recipient enrolled in a program described in section 1(a) of this chapter shall have unrestricted access to a drug described in subsection (b).

Sec. 4. Prior authorization requirements developed under this chapter must:

- (1) comply with all applicable state and federal laws, including the provisions of 405 IAC 5-3 and 42 U.S.C.

1396r-8(d)(5); and

(2) provide that the prior authorization number assigned to an approved request be included on the prescription or drug order:

(A) issued by the prescribing physician; or

(B) if the prescription is transmitted orally, relayed to the dispensing pharmacist by the prescribing physician.

Sec. 5. Before requiring prior authorization for a single source drug, the office shall seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board.

Sec. 6. (a) The office shall publish the decision to require prior authorization for a single source drug in a provider bulletin.

(b) IC 12-15-13-6 applies to a provider bulletin described in subsection (a).

Sec. 7. (a) Subject to subsection (b), the office may place limits on quantities dispensed or the frequency of refills for any covered drug for the purpose of:

- (1) preventing fraud, abuse, waste, overutilization, or inappropriate utilization; or
- (2) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office shall:

- (1) consider quality of care and the best interests of Medicaid recipients;
- (2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board; and
- (3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

SECTION 5. IC 12-17-6-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. Prescription drugs provided under the program are subject to the requirements of IC 12-15-35.5.

SECTION 6. IC 12-15-32-11, AS AMENDED BY P.L.291-2001, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The office may assess community residential facilities for the developmentally disabled (as defined in IC 12-7-2-61) and intermediate care facilities for the mentally retarded (ICF/MR) (as defined in IC 16-29-4-2) that are not operated by the state in an amount not to exceed ten percent (10%) of the total annual gross residential services revenue of the facility for the facility's preceding fiscal year.

(b) The assessments shall be paid to the office of Medicaid policy and planning in equal monthly amounts on or before the tenth day of each calendar month. The office may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) Revenue from the assessments shall be credited to a special account within the state general fund to be called the Medicaid assessment account. Money in the account may be used only for services for which federal financial participation under Medicaid is available to match state funds. An amount equivalent to the federal financial participation estimated to be received for services financed from assessments under subsection (a) shall be used to finance Medicaid services provided by facilities described in subsection (a).

(d) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 7. An emergency is declared for this act.

(Reference is to HB 1233 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

C. BROWN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1238, has had the

same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 1, delete "If the" and insert "**The**".

Page 2, line 1, delete "determines" and insert "**shall determine**".

Page 2, line 3, delete ", the" and insert "**. The**".

Page 2, line 4, delete "responsible".

(Reference is to HB 1238 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1254, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert the following:

"SECTION 1. IC 34-24-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) For purposes of determining the amount of damages recoverable under section 1(1) of this chapter, there is an irrebuttable presumption that a retailer who brings a civil action under this chapter (or IC 34-4-30 before its repeal) as the result of a violation of IC 35-43-4-2 (theft) or IC 35-43-4-3 (conversion) suffers a pecuniary loss in the amount of:

(1) one hundred dollars (\$100) regardless of whether:

(A) the property is returned to the retailer; or

(B) the actual retail value of the property is less than one hundred dollars (\$100); or

(2) the retailer's actual damages;

whichever is greater.

(b) An individual found liable in a civil action under this chapter (or IC 34-4-30 before its repeal) for violating IC 35-43-4-2 or IC 35-43-4-3 may not be indemnified or insured for any penalties, damages, or settlement arising from the violation.

**(c) Damages recoverable under section 1(1) of this chapter are not subject to the provisions of IC 34-51-3."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1254 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

COOK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1263, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1283, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1284, has had the same under consideration and begs leave to report the same back to the House

with the recommendation that said bill be amended as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert: "SECTION 2. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 8.7. "Flight risk" means a person who was placed on parole for conviction of escape or attempted escape or failure to return to lawful detention.**"

Page 1, line 5, delete "IC 11-8-1-8.7" and insert "IC 11-8-1-8.9".

Page 1, line 7, delete "8.7." and insert "**8.9**".

Page 2, delete lines 21 through 28.

Page 2, line 31, delete "a:" and insert "**a**".

Page 2, delete line 32.

Page 2, line 33, delete "(2)".

Page 2, run in lines 31 and 33.

Page 3, delete lines 1 through 2.

Page 3, line 3, delete "(F)" and insert "**(D)**".

Page 3, line 4, delete "(G)" and insert "**(E)**".

Page 3, line 7, delete "(H)" and insert "**(F)**".

Page 3, line 13, after "Offenders" insert "**and Flight Risks**".

Page 3, line 18, after "a" insert "**flight risk (as defined in IC 11-8-1-8.7) or a**".

Page 3, line 24, after "a" insert "**flight risk or a**".

Page 3, delete lines 25 through 28.

Page 3, line 29, delete "4." and insert "**3**".

Page 3, line 29, delete "A monitoring entity" and insert "**The department of correction**".

Page 3, line 40, after "a" insert "**flight risk or a**".

Page 3, between lines 40 and 41, begin a new line block indented and insert:

**"(6) A photograph of the offender."**

Page 3, line 41, delete "5." and insert "**4**".

Page 3, line 42, delete "a monitoring entity" and insert "**the department of correction**".

Page 4, line 5, delete "6." and insert "**5**".

Page 4, line 5, delete "A monitoring entity" and insert "**A contract agency described in subsection (b) or the department of correction**".

Page 4, line 6, delete "4" and insert "**3**".

Page 4, line 9, delete "A monitoring entity" and insert "**The department of correction**".

Page 4, line 11, after "offender." insert "**The department of correction may do this by:**

**(1) using its own equipment and personnel; or**

**(2) contracting with an outside entity."**

Page 4, line 18, delete "7" and insert "**8**".

Page 4, between lines 18 and 19, begin a new paragraph and insert: "**Sec. 2. As used in this chapter, "flight risk" means a person who is charged with escape or attempted escape or failure to return to lawful detention.**"

Page 4, line 19, delete "2." and insert "**3**".

Page 4, line 34, delete "3." and insert "**4**".

Page 5, line 5, delete "4." and insert "**5**".

Page 5, line 6, delete "a:" and insert "**a**".

Page 5, delete line 7.

Page 5, line 8, delete "(2)".

Page 5, run in lines 6 and 8.

Page 5, line 9, delete "5." and insert "**6**".

Page 5, delete lines 16 through 17.

Page 5, line 18, delete "(F)" and insert "**(D)**".

Page 5, line 19, delete "(G)" and insert "**(E)**".

Page 5, line 22, delete "(H)" and insert "**(F)**".

Page 5, line 25, delete "6." and insert "**7**".

Page 6, line 2, delete "7." and insert "**8**".

Page 6, line 5, after "qualifies as a" insert "**flight risk or a**".

Page 6, line 11, after "is a" insert "**flight risk or a**".

Page 6, line 14, after "of a" insert "**flight risk or a**".

Page 6, line 19, before "violent" insert "**flight risk or the**".

Page 6, line 22, delete "violent".

Page 6, line 24, delete "violent".

Page 6, line 25, delete "violent".

Page 6, line 28, after "a" insert "**flight risk or a**".

Page 6, between lines 28 and 29, begin a new line block indented

and insert:

**"(5) A photograph of the offender."**

Page 6, line 29, delete "A" and insert **"Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), a"**.

Page 6, line 35, delete "8." and insert **"9."**

Page 6, line 37, after "of a" insert **"flight risk or a"**.

Page 6, line 39, after "a" insert **"flight risk or a"**.

Page 6, line 42, after "of a" insert **"flight risk or a"**.

Page 7, line 3, after "of the" insert **"flight risk or the"**.

Page 7, between lines 6 and 7, begin a new paragraph and insert:  
**"SECTION 8. IC 35-38-2.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.5. As used in this chapter, "flight risk" means a person who is convicted of escape or attempted escape or failure to return to lawful detention.**

SECTION 9. IC 35-38-2.5-4.5, AS ADDED BY P.L.137-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.5. As used in this chapter, "security risk" means a person who is

**(1) a flight risk; or**

**(2) a threat to the physical safety of the public."**

Page 7, line 13, strike **"IC 35-44-3-5,"**.

Page 7, line 25, after "a" insert **"flight risk or a"**.

Page 7, line 31, after "a" insert **"flight risk or a"**.

Page 8, line 7, after "a" insert **"flight risk or a"**.

Page 8, between lines 8 and 9, begin a new line block indented and insert:

**"(6) A photograph of the offender."**

Page 8, line 21, after "of a" insert **"flight risk or a"**.

Page 8, line 24, after "that the" insert **"flight risk or the"**.

Page 8, line 27, after "of a" insert **"flight risk or a"**.

Page 8, line 29, after "the" insert **"flight risk or the"**.

Renumber all SECTIONS consecutively.

(Reference is to HB 1284 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DVORAK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1315, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 15, delete "shall" and insert **"may"**.

Page 2, line 1, delete "must" and insert **"may"**.

Page 2, delete lines 6 through 13.

Page 2, line 14, delete "(4)" and insert **"(2)"**.

Page 2, delete lines 15 through 21 and insert **"areas that lack access or have only limited access to telecommunications services."**

Page 2, line 22, delete "(5)" and insert **"(3)"**.

Page 2, line 24, delete "(6)" and insert **"(4)"**.

Page 2, delete lines 27 through 29.

Page 3, line 7, delete "shall" and insert **"may"**.

(Reference is to HB 1315 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1316, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1325, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "The" and insert **"(a) Except as provided in subsection (b), the"**.

Page 1, line 8, reset in roman **"and"**.

Page 1, line 9, delete ";" and insert **":"**.

Page 1, delete lines 10 through 12.

Page 1, after line 14, begin a new paragraph and insert:

**"(b) If money remains in the fund after the appropriations under subsection (a) have been made, the legislative body of a unit may use the money remaining in the fund for the purchase, installation, and maintenance of signage containing the name of the highway, street, or road."**

(Reference is to HB 1325 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1332, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

STURTZ, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1354, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 6.

FRY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1366, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 18 through 42.

Delete pages 3 through 6.

Page 7, delete lines 1 through 30.

Page 7, line 31, delete **"(a)"**.

Page 7, delete lines 35 through 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1366 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DVORAK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1382, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, delete "St. Joseph Valley Parkway)," and insert "**Dean Mock Expressway**),".

(Reference is to HB 1382 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

COOK, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1387, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "2004" and insert "**2002**".

Page 1, line 15, delete "2005" and insert "**2003**".

Page 2, line 1, delete "2005" and insert "**2003**".

(Reference is to HB 1387 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

STEVENSON, Chair

Report adopted.

Representative Kuzman was excused.

## ENGROSSED HOUSE BILLS ON THIRD READING

## Engrossed House Joint Resolution 5

Representative Cheney called down Engrossed House Bill 5 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 4 of the Indiana Constitution concerning the general assembly.

The bill was read a third time by sections and placed upon its passage. After discussion, Representative Cheney withdrew the call of Engrossed House Joint Resolution 5.

## Engrossed House Bill 1314

Representative Liggett called down Engrossed House Bill 1314 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 34: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Merritt and Craycraft.

## Engrossed House Bill 1300

Representative Dillon called down Engrossed House Bill 1300 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. By unanimous consent Representative Grubb offered a motion to amend on third reading

HOUSE MOTION  
(Amendment 1300-3)

Mr. Speaker: I move that Engrossed House Bill 1300 be recommitted to a Committee of One, Representative Grubb, with specific instructions to amend as follows:

Page 3, line 19, delete "IC 9-18-2-18" and insert "**IC 9-18-2-28**".

Page 3, line 27, delete "IC 9-18-2-18" and insert "**IC 9-18-2-28**".

(Reference is to HB 1300 as printed January 24, 2002.)

GRUBB

There being a two-thirds vote in favor of the motion, the motion prevailed.

## COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed House Bill 1300, begs leave to report that said bill has been amended as directed.

GRUBB

Report adopted.

The question then was, Shall the bill pass?

Roll Call 35: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wheeler and Alexa.

## Engrossed House Bill 1297

Representative Welch called down Engrossed House Bill 1297 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 36: yeas 87, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller and Simpson.

## Engrossed House Bill 1294

Representative Herndon called down Engrossed House Bill 1294 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 37: yeas 86, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and Lewis.

## Engrossed House Bill 1275

Representative V. Smith called down Engrossed House Bill 1275 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 38: yeas 86, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford and Rogers.

## Engrossed House Bill 1273

Representative Klinker called down Engrossed House Bill 1273 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 39: yeas 88, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors:



Senators Lubbers, Rogers, Kenley, and Simpson.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative Crosby.

### **Engrossed House Bill 1266**

Representative V. Smith called down Engrossed House Bill 1266 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil rights.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 40: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark, Rogers, and Breaux.

Representative Bardon was present.

### **Engrossed House Bill 1257**

Representative Crawford called down Engrossed House Bill 1257 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 41: yeas 89, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators M. Young and Howard.

### **Engrossed House Bill 1252**

Representative Becker called down Engrossed House Bill 1252 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 42: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson, Johnson, and Simpson.

### **Engrossed House Bill 1246**

Representative Summers called down Engrossed House Bill 1246 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 43: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Merritt and Breaux.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker.

Representative T. Adams was present; Representative Cook was excused.

### **Engrossed House Bill 1242**

Representative Harris called down Engrossed House Bill 1242 for

third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 44: yeas 56, nays 36. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wheeler and Rogers.

### **Engrossed House Bill 1227**

Representative Weinzapfel called down Engrossed House Bill 1227 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Hasler was excused from voting.

Roll Call 45: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and L. Lutz.

### **Engrossed House Bill 1225**

Representative Mahern called down Engrossed House Bill 1225 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 46: yeas 91, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and Breaux.

### **Engrossed House Bill 1224**

Representative Weinzapfel called down Engrossed House Bill 1224 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 47: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske and Skillman.

### **Engrossed House Bill 1201**

Representative Robertson called down Engrossed House Bill 1201 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 48: yeas 91, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Young and Server.

### **Engrossed House Bill 1200**

Representative Dillon called down Engrossed House Bill 1200 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 49: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Breaux.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 3:15 p.m. with the Speaker in the Chair.

Representatives Cook and Kuzman were present; Representative Mock was excused; and Representative Bosma was excused for the rest of the day.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1195

Representative Bauer called down Engrossed House Bill 1195 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 50: yeas 66, nays 29. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Borst.

### Engrossed House Bill 1188

Representative Sturtz called down Engrossed House Bill 1188 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 51: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray and Alexa.

### Engrossed House Bill 1187

Representative Sturtz called down Engrossed House Bill 1187 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 52: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray and Alexa.

### Engrossed House Bill 1180

Representative L. Lawson called down Engrossed House Bill 1180 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its

passage. The question was, Shall the bill pass?

Roll Call 53: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator C. Lawson.

### Engrossed House Bill 1179

Representative Kromkowski called down Engrossed House Bill 1179 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 54: yeas 77, nays 16. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Miler.

### Engrossed House Bill 1174

Representative Kromkowski called down Engrossed House Bill 1174 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning the federal decennial census.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 55: yeas 92, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske, Breaux, Skillman, and Craycraft.

### Engrossed House Bill 1163

Representative Crooks called down Engrossed House Bill 1163 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Murphy was excused from voting.

Roll Call 56: yeas 77, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Johnson and Hume.

### Engrossed House Bill 1154

Representative Goodin called down Engrossed House Bill 1154 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. After discussion, Representative Goodin withdrew the call of Engrossed House Bill 1154.

Representative T. Brown was excused for the rest of the day.

### Engrossed House Bill 1140

Representative Bodiker called down Engrossed House Bill 1140 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 57: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?

There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Paul, Lanane, and Lewis.

### **Engrossed House Bill 1139**

Representative Bodiker called down Engrossed House Bill 1139 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 58: yeas 84, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Paul and Lanane.

### **Engrossed House Bill 1134**

Representative Summers called down Engrossed House Bill 1134 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 59: yeas 79, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Merritt and Howard.

### **Engrossed House Bill 1133**

Representative Frenz called down Engrossed House Bill 1133 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 60: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Riegsecker and L. Lutz.

### **Engrossed House Bill 1111**

Representative Leuck called down Engrossed House Bill 1111 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Murphy was excused from voting.

Roll Call 61: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Gard and Rogers.

### **Engrossed House Bill 1043**

Representative Frenz called down Engrossed House Bill 1043 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 62: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed

to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford and Waterman.

### **Engrossed House Bill 1030**

Representative Grubb called down Engrossed House Bill 1030 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 63: yeas 92, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Breaux.

### **Engrossed House Bill 1015**

Representative Cochran called down Engrossed House Bill 1015 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 64: yeas 91, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Sipes, Borst, and Lewis.

Representative Mock was present.

### **Engrossed House Bill 1014**

Representative Day called down Engrossed House Bill 1014 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 65: yeas 47, nays 48. The bill failed.

### **Engrossed House Bill 1292**

Pursuant to House Rule 146.3, the author of Engrossed House Bill 1292, Representative Foley, granted consent to the coauthor, Representative Sturtz, to call the bill down for third reading. Representative Sturtz called down Engrossed House Bill 1292 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 66: yeas 78, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray and Alexa.

## **REPORTS FROM COMMITTEES**

### **COMMITTEE REPORT**

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1029, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 4, delete "rules adopted" and insert "**the training and certification standards established**".

Page 2, line 16, delete "Rules adopted under IC 4-22-2 for training" and insert "**Training**".

Page 2, line 17, delete "emergency medical" and insert "**the use of**".

antidote kits for the treatment of exposure to chemical agent VX (nerve agent) by advanced emergency medical technicians and emergency medical technicians who work for emergency medical service providers located in:

(A) a county having a population of more than sixteen thousand seven hundred (16,700) but less than seventeen thousand (17,000).

(B) a county having a population of more than seventeen thousand (17,000) but less than seventeen thousand five hundred (17,500);

(C) a county having a population of more than seventeen thousand five hundred (17,500) but less than eighteen thousand (18,000); or

a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000)."

Page 2, delete lines 18 through 19.

(Reference is to HB 1135 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1135, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, after "garage;" insert "**or**".

Page 2, delete line 23.

Page 2, line 24, delete "(C)" and insert "**(B)**".

Page 2, between lines 24 and 25, begin a new line block indented and insert "**where hazardous materials are stored;**".

Page 2, line 25, delete "and".

Page 2, line 26, delete "." and insert ";".

Page 2, between lines 26 and 27, begin a new line block indented and insert:

"**(4) are not blocked; and**

**(5) are operable from the inside without the use of a key or any special knowledge.**".

Page 2, line 35, delete "and".

Page 3, line 2, delete "care." and insert "care; **and**

**(3) keep a two and one-half (2 ½) pound or greater ABC multiple purpose fire extinguisher, which must be located on each floor of the building in which child care services are provided, including an additional extinguisher located in the kitchen area of the provider's home.**".

(Reference is to HB 1135 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, delete line 39.

Page 5, line 40, delete "(3)" and insert "**(2)**".

Page 5, line 42, delete "(4)" and insert "**(3)**".

Page 6, line 2, delete "(5)" and insert "**(4)**".

Page 6, line 2, delete "least ten (10)" and insert "**least:**

**(1) twenty (20)**".

Page 6, line 4, delete "date, with at" and insert "**date; or**

**(2)**".

Page 6, line 5, delete "least".

Page 6, line 5, delete "that".

(Reference is to HB 1153 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 3.

PORTER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the amendment adopted by the consent of the House Ways and Means Committee on January 29, 2002.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-21.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following persons have standing to obtain judicial review of an agency action:

(1) A person to whom the agency action is specifically directed.

(2) A person who was a party to the agency proceedings that led to the agency action.

(3) A person eligible for standing under a law applicable to the agency action.

(4) A person otherwise aggrieved or adversely affected by the agency action.

**(5) The department of local government finance with respect to judicial review of a final determination of the Indiana board of tax review in an action in which the department has intervened under IC 6-1.1-15-5(b).**

(b) A person has standing under subsection (a)(4) only if:

(1) the agency action has prejudiced or is likely to prejudice the interests of the person;

(2) the person:

(A) was eligible for an initial notice of an order or proceeding under this article, was not notified of the order or proceeding in substantial compliance with this article, and did not have actual notice of the order or proceeding before the last date in the proceeding that the person could object or otherwise intervene to contest the agency action; or

(B) was qualified to intervene to contest an agency action under IC 4-21.5-3-21(a), petitioned for intervention in the proceeding, and was denied party status;

(3) the person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and

(4) a judgment in favor of the person would substantially eliminate or redress the prejudice to the person caused or likely to be caused by the agency action.

SECTION 1. IC 6-1.1-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. The township assessor shall:

**(1) examine and verify; or**

**(2) allow a contractor under IC 6-1.1-36-12 to examine and verify;**

the accuracy of each personal property return filed with **him the township assessor** by a taxpayer. If appropriate, the assessor **or contractor under IC 6-1.1-36-12** shall compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

SECTION 2. IC 6-1.1-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) In assessing or reassessing land, the land shall be assessed as agricultural land only when it is devoted to agricultural use.

**(b) In making a general reassessment of land used for agriculture, the county assessor shall appoint a committee of five (5) competent persons to help determine land values. At least two (2) of the committee members must be agricultural land owners of the county. The committee shall be known as the county agricultural land advisory committee. The indicators of value determined by this committee shall be submitted to the tax commissioners' agricultural advisory council, as established under IC 6-1.1-38-1, as guides for ascertaining the value of agricultural land.**

~~(c)~~ **(b)** The ~~state board of tax commissioners~~ **department of local government finance** shall give written notice to each county assessor of:

- (1) the availability of the United States Department of Agriculture's soil survey data; and
- (2) the appropriate soil productivity factor for each type or classification of soil shown on the United States Department of Agriculture's soil survey map.

All assessing officials and the property tax assessment board of appeals shall use the data in determining the true tax value of agricultural land.

~~(d)~~ **(c)** The ~~state board of tax commissioners~~ **department of local government finance** shall by rule provide for the method for determining the true tax value of each parcel of agricultural land.

~~(e)~~ **(d)** This section does not apply to land purchased for industrial, commercial, or residential uses.

SECTION 3. IC 6-1.1-4-25, AS AMENDED BY P.L.198-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) Each township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) The township assessor in a county having a consolidated city, or the county assessor in every other county, shall:

- (1) maintain an electronic data file of:
  - (A) the parcel characteristics and parcel assessments of all parcels; **and**
  - (B) the personal property return characteristics and assessments by return;**
 for each township in the county as of each assessment date; ~~that is~~
- (2) maintain the file** in the form required by:
  - (A) the legislative services agency; and
  - (B) the department of local government finance; and
- ~~(3)~~ **(3)** transmit the data **in the file** with respect to the assessment date of each year before October 1 of the year to:
  - (A) the legislative services agency; and
  - (B) the department of local government finance.

SECTION 4. IC 6-1.1-4-27.5, AS ADDED BY P.L.198-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county is required to levy under this section in the county's property reassessment fund.

(b) With respect to the general reassessment of real property which is to commence on July 1, 2004, the county council of each county shall, for property taxes due in the year in which the general reassessment is to commence and the two (2) years immediately preceding that year, levy against all the taxable property of the county an amount equal to one-third (1/3) of the estimated cost of the general reassessment.

(c) With respect to a general reassessment of real property that is to commence on July 1, 2008, and each fourth year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the three (3) years preceding that year, levy against all the taxable property in the county an amount equal to one-fourth (1/4) of the estimated cost of the general reassessment.

(d) The state board of tax commissioners or the department of local government finance shall give to each county council notice, before January 1 **in a year** of the tax levies required by this section **for that year**.

(e) The state board of tax commissioners or the department of local government finance may raise or lower the property ~~taxes levied~~ **tax levy** under this section for a year if the state board or the department determines it is appropriate because the estimated cost of

the a general reassessment, **including a general reassessment to be completed for the March 1, 2002, assessment date**, has changed.

(f) If the county council determines that there is insufficient money in the county's reassessment fund to pay all expenses (as permitted under ~~section sections 28 28.5 and 32~~ of this chapter) relating to the general reassessment of real property commencing July 1, 2000, the county may, for the purpose of paying expenses (as permitted under ~~section sections 28 28.5 and 32~~ of this chapter) relating to the general reassessment commencing July 1, 2000, use money deposited in the fund from ~~taxes levied in the tax levy under this section for 2000 or a later year~~.

SECTION 5. IC 6-1.1-4-32, AS ADDED BY P.L.151-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) **As used in this section, "contract" refers to a contract entered into under this section.**

**(b) As used in this section, "contractor" refers to a firm that enters into a contract with the state board of tax commissioners (before January 1, 2002) or the department of local government finance (after December 31, 2001) under this section.**

(c) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

~~(b)~~ **(d)** Notwithstanding ~~IC 6-1.1-4-15 sections 15 and IC 6-1.1-4-17, 17 of this chapter~~ a township assessor in a qualifying county may not appraise property, or have property appraised, for the general reassessment of real property to be completed for the March 1, 2002, assessment date. Completion of that general reassessment in a qualifying county is instead governed by this section. The only duty of:

- (1) a township assessor in a qualifying county; or
- (2) a county assessor of a qualifying county;

with respect to that general reassessment is to provide to the ~~state board department of tax commissioners~~ **local government finance** or the ~~state board's department's~~ contractor under subsection ~~(c)~~ **(e)** any support and information requested by the state board **(before January 1, 2002), department (after December 31, 2001), or the contractor. This subsection expires June 30, 2004.**

~~(e)~~ **(e)** The state board of tax commissioners **(before January 1, 2002) and the department of local government finance (after December 31, 2001)** shall select and contract with a nationally recognized certified public accounting firm with expertise in the appraisal of real property to appraise property for the general reassessment of real property in a qualifying county to be completed for the March 1, 2002, assessment date. **The department of local government finance may enter into additional contracts to provide software or other auxiliary services to be used for the appraisal of property for the general reassessment.** The contract applies for the appraisal of land and improvements with respect to all classes of real property in the qualifying county. The contract must include:

- (1) a provision requiring the appraisal firm to:
  - (A) prepare a detailed report of:
    - (i) expenditures made after July 1, 1999, and before the date of the report from the qualifying county's reassessment fund under ~~IC 6-1.1-4-28; section 28 of this chapter (repealed);~~ and
    - (ii) the balance in the reassessment fund as of the date of the report; and
  - (B) file the report with:
    - (i) the legislative body of the qualifying county;
    - (ii) the prosecuting attorney of the qualifying county;
    - (iii) the ~~state board department of tax commissioners;~~ **local government finance;** and
    - (iv) the attorney general;
- (2) a fixed date by which the appraisal firm must complete all responsibilities under the contract;
- (3) **subject to subsection (t),** a provision requiring the appraisal firm to use the land values determined for the qualifying county under ~~IC 6-1.1-4-13.6; section 13.6 of this chapter;~~
- (4) a penalty clause under which the amount to be paid for

appraisal services is decreased for failure to complete specified services within the specified time;

(5) a provision requiring the appraisal firm to make periodic reports to the ~~state board department of tax commissioners;~~ **local government finance;**

(6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (5) are to be made;

(7) a precise stipulation of what service or services are to be provided;

(8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the ~~state board department of tax commissioners;~~ **local government finance;** and

(9) any other provisions required by the ~~state board department of tax commissioners;~~ **local government finance.**

After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. This subsection expires June 30, 2004.

~~(d)~~ (f) At least one (1) time each month, the contractors that will make physical visits to the site of real property for reassessment purposes shall publish a notice under IC 5-3-1 describing the areas that are scheduled to be visited within the next thirty (30) days and explaining the purposes of the visit. The notice shall be published in a way to promote understanding of the purposes of the visit in the affected areas. After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (e), the ~~state board department of tax commissioners~~ **local government finance** shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment is subject to appeal by the taxpayer to the ~~state Indiana board of tax commissioners.~~ Except as provided in subsection ~~(e);~~ (g), the procedures and time limitations that apply to an appeal to the ~~state Indiana board of tax commissioners~~ of a determination of the county property tax assessment board of appeals under IC 6-1.1-15 apply to an appeal under this subsection. A determination by the ~~state Indiana board of tax commissioners~~ of an appeal under this subsection is subject to appeal to the tax court under IC 6-1.1-15. **This subsection expires on the later of June 30, 2004, or the date a final determination is entered in the last pending appeal filed under this subsection.**

~~(e)~~ (g) In order to obtain a review by the ~~state Indiana board of tax commissioners~~ under subsection ~~(d);~~ (f), the taxpayer must file a petition for review with the appropriate county assessor within forty-five (45) days after the notice of the ~~state board department of tax commissioners~~ **local government finance** is given to the taxpayer under subsection ~~(d);~~ (f). **This subsection expires June 30, 2004.**

~~(f)~~ (h) The ~~state board department of tax commissioners~~ **local government finance** shall mail the notice required by subsection ~~(d)~~ (f) within ninety (90) days after the ~~board department of local government finance~~ receives the report for a parcel from the professional appraisal firm. **This subsection expires June 30, 2004.**

~~(g)~~ (i) The **qualifying county shall pay the cost of a any** contract under this section ~~shall be paid without appropriation~~ from the county property reassessment fund. ~~of the qualifying county established under IC 6-1.1-4-27. However, the maximum amount that the qualifying county is obligated to pay for all contracts entered into under subsection (e) for the general reassessment of real property in the qualifying county to be completed for the March 1, 2002, assessment date is twenty-five million one hundred thousand dollars (\$25,100,000). A contractor may~~

**periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:**

(1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;

(2) obtains from the department of local government finance:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and

(3) files with the county auditor of the qualifying county:

(A) a duplicate copy of the bill submitted to the department of local government finance;

(B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and

(C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. **This subsection expires June 30, 2004.**

~~(h)~~ (j) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the state board of tax commissioners ~~(before January 1, 2002) and the department of local government finance (after December 31, 2001)~~ under this section:

(1) The commissioner of the ~~Indiana~~ department of administration.

(2) The director of the budget agency.

(3) The attorney general.

(4) The governor.

~~(i)~~ (k) With respect to a general reassessment of real property to be completed under ~~IC 6-1.1-4-4~~ **section 4 of this chapter** for an assessment date after the March 1, 2002, assessment date, the ~~state board department of tax commissioners~~ **local government finance** shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or a portion of the real property in a qualifying county or a township in a qualifying county. The ~~state board department of local government finance~~ may contract to have the review performed by an appraisal firm. The ~~state board department of local government finance~~ or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

(1) the total assessed valuation of the real property within the qualifying county or township; and

(2) the total assessed valuation that would result if the real

property within the qualifying county or township were valued in the manner provided by law.

(~~h~~) (l) If:

- (1) the variance determined under subsection (~~h~~) (k) exceeds ten percent (10%); and
- (2) the ~~state board department of tax commissioners local government finance~~ determines after holding hearings on the matter that a special reassessment should be conducted;

the ~~state board department of local government finance~~ shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

(~~k~~) (m) If the variance determined under subsection (~~h~~) (k) is ten percent (10%) or less, the ~~state board department of tax commissioners local government finance~~ shall determine whether to correct the valuation of the property under:

- (1) sections 9 and 10 of this chapter; or
- (2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

(~~h~~) (n) The ~~state board department of tax commissioners local government finance~~ shall give notice by mail to a taxpayer of a hearing concerning the ~~state board's intent of the department of local government finance~~ to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The ~~state board department of local government finance~~ may conduct a single hearing under this section with respect to multiple properties. The notice must state:

- (1) the time of the hearing;
- (2) the location of the hearing; and
- (3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the ~~state board's intent of the department of local government finance~~ to reassess property under this chapter.

(~~m~~) (o) If the ~~state board department of tax commissioners local government finance~~ determines after the hearing that property should be reassessed under this section, the ~~state board department of local government finance~~ shall:

- (1) cause the property to be reassessed under this section;
- (2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located; and
- (3) notify the taxpayer by mail of its final determination.

(~~n~~) (p) A reassessment may be made under this section only if the notice of the final determination under subsection (~~h~~) (n) is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

(~~o~~) (q) If the ~~state board department of tax commissioners local government finance~~ contracts for a special reassessment of property under this section, the ~~state board shall forward the bill for services of the contractor to the county auditor; and the qualifying county shall pay the bill, without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:~~

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
  - (A) approval of the form and amount of the bill; and
  - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
  - (A) a duplicate copy of the bill submitted to the department of local government finance;
  - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
  - (C) the certification provided by the department of local

government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(~~o~~) (r) A township assessor in a qualifying county or a county assessor of a qualifying county shall provide information requested in writing by the ~~state board department of tax commissioners local government finance~~ or the ~~state board's department's~~ contractor under this section not later than seven (7) days after receipt of the written request from the ~~state board department~~ or the contractor. If a township assessor or county assessor fails to provide the requested information within the time permitted in this subsection, the ~~state board department of tax commissioners local government finance~~ or the ~~state board's department's~~ contractor may seek an order of the tax court under IC 33-3-5-2.5 for production of the information.

(~~o~~) (s) The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

(t) A contract entered into under subsection (e) is subject to this subsection. A contractor shall use the land values determined for the qualifying county under section 13.6 of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section 13.6 of this chapter do not reflect the true tax value of land, the contractor shall determine land values for the qualifying county that reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.

(u) A contractor acting under a contract under subsection (e) may notify the department of local government finance if:

- (1) the county auditor fails to:
  - (A) certify the bill;
  - (B) publish the claim;
  - (C) submit the claim to the county executive; or
  - (D) issue a warrant or check;

as required in subsection (i) at the first opportunity the county auditor is legally permitted to do so;

(2) the county executive fails to allow the claim as required in subsection (i) at the first opportunity the county executive is legally permitted to do so; or

(3) a person or entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts the process under this section for payment



of a bill submitted by a contractor under subsection (I). This subsection expires June 30, 2004.

(v) The department of local government finance, upon receiving notice under subsection (u) from the contractor, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (b)(1) or (b)(2); or

(B) a person or entity acted or failed to act as described in subsection (b)(3); and

(2) provide to the treasurer of state the department of local government finance's approval under subsection (I)(2)(A) of the bill with respect to which the contractor gave notice under subsection (u).

This subsection expires June 30, 2004.

(w) Upon receipt of the approval of the department of local government finance under subsection (v), the treasurer of state shall pay the contractor the amount of the bill approved by the department of local government finance from money in the possession of the state that would otherwise be available for distribution to the qualifying county, including distributions from the property tax replacement fund or distributions of admissions taxes or wagering taxes. This subsection expires June 30, 2004.

(x) The treasurer of state shall withhold from the part attributable to the county of the next distribution to the county treasurer under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or another law the amount of any payment made by the treasurer of state to the contractor under subsection (w). Money shall be deducted first from money payable under IC 6-1.1-21.4(b) and then from all other funds payable to the qualifying county. This subsection expires June 30, 2004.

(y) Compliance with subsections (u) through (x) shall be treated as compliance with IC 5-11-10. This subsection expires June 30, 2004.

(z) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (u) through (x). This subsection and subsections (u) through (y) shall be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county under this section are paid. Nothing in this subsection or subsections (u) through (y) shall be construed to create a debt of the state. This subsection expires June 30, 2004.

SECTION 6. IC 6-1.1-5-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.1. (a) Except:

(1) as provided in subsection (b); and

(2) for civil townships described in section 9 of this chapter; and notwithstanding the provisions of sections 1 through 8 of this chapter, for all other civil townships having a population of thirty-five thousand (35,000) or more, for a civil township that falls below a population of thirty-five thousand (35,000) at a federal decennial census that takes effect after December 31, 2001, and for all other civil townships in which a city of the second class is located, the township assessor shall make the real property lists and the plats described in sections 1 through 8 of this chapter.

(b) In a civil township that attains a population of thirty-five thousand (35,000) or more at a federal decennial census that takes effect after December 31, 2001, the township assessor shall make the real property lists and the plats described in sections 1 through 8 of this chapter only if the county auditor and the township assessor agree to transfer the duty from the county auditor to the township assessor.

(c) With respect to these townships in which the township assessor makes the real property lists and the plats described in sections 1 through 8 of this chapter, the county auditor shall, upon completing the tax duplicate, return the real property lists to the township assessor for the continuation of the lists by the assessor. If land located in one (1) of these townships is platted, the plat shall be presented to the township assessor instead of the county auditor, before it is recorded. The township assessor shall then enter the lots or parcels described in the plat on the tax lists in lieu of the land included in the plat.

SECTION 7. IC 6-1.1-5.5-4, AS AMENDED BY P.L.198-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A person filing a sales disclosure form under this chapter shall pay a fee of five dollars (\$5) to the county auditor.

(b) Eighty percent (80%) of the revenue collected under this section and section 12 of this chapter shall be deposited in the county sales disclosure fund established under section 4.5 of this chapter. Twenty percent (20%) of the revenue shall be transferred to the state treasurer for deposit in the state assessment training fund established under section 4.7 of this chapter.

SECTION 8. IC 6-1.1-5.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) A person who knowingly and intentionally:

(1) falsifies the value of transferred real property; or

(2) omits or falsifies any information required to be provided in the sales disclosure form;

commits a Class A ~~infraction~~ misdemeanor.

(b) A public official who knowingly and intentionally accepts:

(1) a sales disclosure document for filing that:

(A) falsifies the value of transferred real property; or

(B) omits or falsifies any information required to be provided in the sales disclosure form; or

(2) a conveyance document for recording in violation of section 6 of this chapter;

commits a Class A infraction.

SECTION 9. IC 6-1.1-5.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) A party to a conveyance who:

(1) is required to file a sales disclosure form under this chapter; and

(2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

(1) twenty-five dollars (\$25); or

(2) twenty five thousandths of one percent (.025%) of the sale price of the real property transferred under the conveyance document.

(c) The county assessor shall:

(1) determine the penalty imposed under this section;

(2) assess the penalty to the party to a conveyance;

(3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment;

(4) collect the penalty;

(5) deposit penalty collections as required under section 4 of this chapter; and

(6) notify the county prosecuting attorney of delinquent payments.

(d) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

SECTION 10. IC 6-1.1-8-30, AS AMENDED BY P.L.198-2001, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 30. If a public utility company files its objections to the department of local government finance's tentative assessment of the company's distributable property in the manner prescribed in section 28 of this chapter, the company may initiate an appeal of the department's final assessment of that property by filing a petition with the Indiana board not more than ~~twenty (20)~~ **forty-five (45)** days after the department gives the public utility notice of the final determination. The public utility may petition for judicial review of the Indiana board's final determination to the tax court under IC 4-21.5-5. However, the company must:

(1) file a verified petition for judicial review; and

(2) mail to the county auditor of each county in which the public utility company's distributable property is located:

(A) a notice that the complaint was filed; and

(B) instructions for obtaining a copy of the complaint; within ~~twenty (20)~~ **forty-five (45)** days after the date of the notice of the Indiana board's final determination.

SECTION 11. IC 6-1.1-10-21, AS AMENDED BY P.L.198-2001, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

(1) A building which is used for religious worship.

(2) Buildings that are used as parsonages.

(3) The pews and furniture contained within a building which is used for religious worship.

(4) The tract of land, not exceeding ~~fifteen (15)~~ **fifty (50)** acres, upon which a building described in this section is situated.

(b) To obtain an exemption for parsonages, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

(1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor. The county auditor shall immediately forward a copy of the affidavit to the county assessor.

(c) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 12. IC 6-1.1-11-3, AS AMENDED BY P.L.198-2001, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) An owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the ~~auditor~~ **county assessor** of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms prescribed by the department of local government finance. ~~The county auditor shall immediately forward a copy of the certified application to the county assessor.~~ Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

SECTION 13. IC 6-1.1-15-1, AS AMENDED BY P.L.198-2001, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the county property tax assessment board of

appeals. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) In order to appeal a current assessment and have a change in the assessment effective for the most recent assessment date, the taxpayer must file a petition with the assessor of the county in which the action is taken:

(1) within forty-five (45) days after notice of a change in the assessment is given to the taxpayer; or

(2) May 10 of that year;

whichever is later. The county assessor shall notify the county auditor that the assessment is under appeal.

(c) A change in an assessment made as a result of an appeal filed:

(1) in the same year that notice of a change in the assessment is given to the taxpayer; and

(2) after the time prescribed in subsection (b);

becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The department of local government finance shall prescribe the form of the petition for review of an assessment determination by a township assessor. The department shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the department. The form must require the petitioner to specify the following:

(1) The physical characteristics of the property in issue that bear on the assessment determination.

(2) All other facts relevant to the assessment determination.

(3) The reasons why the petitioner believes that the assessment determination by the township assessor is erroneous.

(f) The department of local government finance shall prescribe a form for a response by the township assessor to the petition for review of an assessment determination. The department shall issue instructions for completion of the form. The form must require the township assessor to indicate:

(1) agreement or disagreement with each item indicated on the petition under subsection (e); and

(2) the reasons why the assessor believes that the assessment determination is correct.

(g) Immediately upon receipt of a timely filed petition on the form prescribed under subsection (e), the county assessor shall forward a copy of the petition to the township assessor who made the challenged assessment. The township assessor shall, within thirty (30) days after the receipt of the petition, attempt to hold a preliminary conference with the petitioner and resolve as many issues as possible. Within ten (10) days after the conference, the township assessor shall forward to the county auditor and county assessor a completed response to the petition on the form prescribed under subsection (f). The county assessor shall immediately forward a copy of the response form to the petitioner and the county property tax assessment board of appeals. **If after the conference there are no items listed in the petition on which there is disagreement, the property tax assessment board of appeals may hold a hearing within ninety (90) days after the filing of the petition to review the agreement reached by the township assessor and the petitioner and to determine whether to change the assessment that would result from that agreement.** If after the conference there are items listed in the petition on which there is disagreement, the property tax assessment board of appeals shall hold a hearing within ninety (90) days of the filing of the petition on those items of disagreement, except as provided in ~~subsection~~ **subsections (h) and (i).** The taxpayer may present the taxpayer's reasons for disagreement with the assessment. **If the township assessor or county assessor for**

the county **disagrees with the assessment, the township assessor or county assessor** must present the basis for the assessment decision on ~~these~~ **the items of disagreement** to the board of appeals at the hearing and the reasons the petitioner's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item within sixty (60) days of the hearing, except as provided in ~~subsection~~ **subsections (h) and (i)**. If the township assessor does not attempt to hold a preliminary conference, the board shall accept the appeal of the petitioner at the hearing.

(h) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

- (1) hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and
- (2) have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.

(i) **This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:**

- (1) **hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and**
- (2) **have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.**

(j) The county property tax assessment board of appeals:

- (1) may not require a taxpayer that files a petition for review under this section to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (g); and
- (2) may require the parties to the appeal to file not more than ten (10) days before the date of the hearing required under subsection (g) lists of witnesses and exhibits to be introduced at the hearing.

SECTION 14. IC 6-1.1-15-5, AS AMENDED BY P.L.198-2001, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Within fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

- (1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and
- (2) shall issue a final determination within ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

Failure of the Indiana board to make a final determination within the time allowed under subdivision (2) shall be treated as a final determination affirming the original decision of the Indiana board.

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the

determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the reassessment fund under IC 6-1.1-4-27. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. **The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A:**

- (1) township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section; or
- (2) county auditor who made the original enterprise zone inventory credit determination under appeal under IC 6-1.1-20.8;

is a party to the review under this section to defend the determination.

(c) To initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) within:

- (1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or
- (2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section 4(f) or 4(g) of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor or elected township assessor. If the county executive determines upon a request under this subsection to not appeal to the tax court, the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget.

SECTION 15. IC 6-1.1-15-8, AS AMENDED BY P.L.198-2001, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a final determination by the Indiana board regarding the assessment of any tangible property is vacated, set aside, or adjudged null and void under the decision of the tax court under IC 4-21.5-5, the matter of the assessment of the property shall be remanded to the Indiana board ~~for reassessment and further proceedings as specified in the decision of the tax court with instructions to the Indiana board to refer the matter to the:~~

- (1) **department of local government finance with respect to an appeal of a determination made by the department; or**
- (2) **county property tax assessment board of appeals with respect to an appeal of a determination made by the county board;**

**to make another assessment.** Upon remand, the Indiana board may take action only on those issues specified in the decision of the tax court.

(b) ~~The Indiana board~~ **department of local government finance or the county property tax assessment board of appeals** shall take action on a case ~~remanded referred~~ to it by the ~~tax court~~ **Indiana board under subsection (a)** not later than ninety (90) days after the date the ~~decision of the tax court is rendered; referral is made~~ unless an appeal of the final determination of the Indiana board is initiated under IC 4-21.5-16. ~~The Indiana board~~ **department of local government finance or the county property tax assessment board of appeals** may petition the ~~tax court~~ **Indiana board** at any time for an extension of the ninety (90) day period. An extension shall be granted upon a showing of reasonable cause.

(c) The taxpayer in a case remanded under subsection (a) may petition the tax court for an order requiring the ~~Indiana board~~

**department of local government finance or the county property tax assessment board of appeals** to show cause why action has not been taken pursuant to the ~~tax court's decision~~ **Indiana board's referral under subsection (a) if:**

- (1) at least ninety (90) days have elapsed since the ~~tax court's decision referral was rendered; made;~~
  - (2) the ~~Indiana board~~ **department of local government finance or the county property tax assessment board of appeals** has not taken action on the issues specified in the tax court's decision; and
  - (3) an appeal of the tax court's decision has not been filed.
- (d) If a case remanded under subsection (a) is appealed under IC 4-21.5-5-16, the ninety (90) day period provided in subsection (b) is tolled until the appeal is concluded.

SECTION 16. IC 6-1.1-15-9, AS AMENDED BY P.L.198-2001, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the assessment of tangible property is corrected by the ~~Indiana board~~ **department of local government finance or the county property tax assessment board of appeals** under section 8 of this chapter, the owner of the property has a right to appeal the ~~Indiana board's~~ final determination of the corrected assessment ~~in a case meeting the requirements of section 5(c)(1) or 5(c)(2) of this chapter, to the Indiana board.~~ The county executive also has a right to appeal the ~~Indiana board's~~ final determination of the reassessment **by the department of local government finance or the county property tax assessment board of appeals** but only upon request by the county assessor.

(b) An appeal under this section must be initiated in the manner prescribed in section ~~5 3~~ of this chapter **or IC 6-1.5-5."**

Page 13, between lines 2 and 3, begin a new paragraph and insert: "SECTION 22. IC 6-1.1-26-2, AS AMENDED BY P.L.198-2001, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The county auditor shall forward a claim for refund filed under section 1 of this chapter to the department of local government finance for review by the department if:

- (1) the claim is for the refund of taxes paid on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance; and
- (2) the claim is based upon the grounds specified in IC 6-1.1-26-1(4)(ii) or IC 6-1.1-26-1(4)(iii).

(b) The department of local government finance shall review each refund claim forwarded to it under this section. The department shall certify its approval or disapproval on the claim and shall return the claim to the county auditor.

(c) Before the department of local government finance disapproves a refund claim that is forwarded to it under this section, the department shall notify the claimant of its intention to disapprove the claim and of the time and place fixed for a hearing on the claim. The department shall hold the hearing within thirty (30) days after the date of the notice. The claimant has a right to be heard at the hearing. After the hearing, the department shall give the claimant notice of the department's final determination on the claim.

(d) If a person desires to initiate an appeal of the final determination of the department of local government finance to disapprove a claim under subsection (c), the person shall file a petition for review with the ~~Indiana board~~ **appropriate county assessor** not more than forty-five (45) days after the department gives the person notice of the final determination.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (d), the person must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 17. IC 6-1.1-26-5, AS AMENDED BY P.L.198-2001, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. (a) When a claim for refund filed under section 1 of this chapter is allowed either by the county board of commissioners, the department of local government finance, the Indiana board, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of

the refund shall equal the amount of the claim so allowed plus, with respect to claims for refund filed after ~~June 30; December 31, 2001,~~ interest at four percent (4%) from the date on which the taxes were paid or payable, whichever is later, to the date of the refund. The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this section.

(b) In the June or December settlement and apportionment of taxes, or both the June and December settlement and apportionment of taxes, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

SECTION 18. IC 6-1.1-28-1, AS AMENDED BY P.L.198-2001, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. The board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. However, if the county assessor is a certified level ~~2~~ **Indiana two** assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level ~~2~~ **Indiana two** assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board **that includes at least one (1) certified level two assessor-appraiser** constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level ~~2~~ **two** Indiana assessor-appraisers:

- (1) who are willing to serve on the board; and
- (2) whose political party membership status would satisfy the requirement in subsection (c)(1).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

- (1) residents of the county;
- (2) certified level ~~2~~ **two** Indiana assessor-appraisers; and
- (3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

SECTION 19. IC 6-1.1-30-1.1, AS ADDED BY P.L.198-2001, SECTION 66, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) The department of local government finance is established.

(b) **The governor shall appoint an individual with appropriate training and experience as commissioner of the department. The commissioner:**

- (1) **is the executive and chief administrative officer of the department;**
- (2) **may delegate authority to appropriate department staff;**
- (3) **serves at the pleasure of the governor; and**
- (4) **is entitled to receive compensation in an amount set by the governor, subject to approval by the budget agency.**

SECTION 20. IC 6-1.1-35-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) All information ~~which that~~ is related to earnings, income, profits, losses, or expenditures and ~~which that~~ is: **either**

- (1) given by a person to:
  - (A) an assessing official;
  - (B) a member of a county property tax assessment board of appeals;
  - (C) a county assessor; ~~or one (1) of their employees~~
  - (D) an employee of a person referred to in clauses (A) through (C); or**
  - (E) an officer or employee of an entity that contracts with a board of county commissioners under IC 6-1.1-36-12; or**
- (2) acquired by:
  - (A) an assessing official;
  - (B) a member of a county property tax assessment board of appeals;
  - (C) a county assessor; ~~or one (1) of their employees~~
  - (D) an employee of a person referred to in clauses (A) through (C); or**
  - (E) an officer or employee of an entity that contracts with a board of county commissioners under IC 6-1.1-36-12;**

in the performance of ~~his~~ **the person's** duties; is confidential. The assessed valuation of tangible property is a matter of public record and is thus not confidential. Confidential information may be disclosed only in a manner ~~which that~~ is authorized under subsection (b), (c), or (d).

(b) Confidential information may be disclosed to:

- (1) an official or employee of:
  - ~~(1) (A)~~ **(A)** this state or another state;
  - ~~(2) (B)~~ **(B)** the United States; or
  - ~~(3) (C)~~ **(C)** an agency or subdivision of this state, another state, or the United States;

if the information is required in the performance of ~~his~~ **the official duties of the official or employee; or**

**(2) an officer or employee of an entity that contracts with a board of county commissioners under IC 6-1.1-36-12 if the information is required in the performance of the official duties of the officer or employee.**

(c) The following state agencies, or their authorized representatives, shall have access to the confidential farm property records and schedules ~~which that~~ are on file in the office of a county or township assessor:

- (1) the Indiana state board of animal health, in order to perform its duties concerning the discovery and eradication of farm animal diseases;
- (2) the department of agricultural statistics of Purdue University, in order to perform its duties concerning the compilation and dissemination of agricultural statistics; and
- (3) any other state agency ~~which that~~ needs the information in order to perform its duties.

(d) Confidential information may be disclosed during the course of a judicial proceeding in which the regularity of an assessment is questioned.

(e) Confidential information ~~which that~~ is disclosed to a person under subsection (b) or (c) of this section retains its confidential status. Thus, that person may disclose the information only in a manner ~~which that~~ is authorized under subsection (b), (c), or (d). ~~of~~

this section:

SECTION 21. IC 6-1.1-36-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) ~~If~~ A board of county commissioners ~~enters~~ **may enter** into a contract for the discovery of property ~~which that~~ has been **undervalued or** omitted from assessment. **The contract may require the contractor to:**

- (1) **examine and verify the accuracy of personal property returns filed by taxpayers with a township assessor of a township in the county; and**
- (2) **compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.**

(b) The investigation and collection expenses ~~shall of a contract~~ **under subsection (a) may** be deducted from the gross amount of taxes collected on the **undervalued or** omitted property ~~which that~~ is so discovered. The remainder of the taxes collected on the **undervalued or** omitted property shall be distributed to the appropriate taxing units.

(c) **A board of county commissioners may not contract for services under subsection (a) on a commission or percentage basis.**

SECTION 22. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section 2.5, 2.7, **2.8, 2.9, or 3.5, or 3.6** of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Council imposes the county adjusted gross income tax on the county taxpayers of \_\_\_\_\_ County. The county adjusted gross income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 23. IC 6-3.5-1.1-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.8. (a) This section applies to a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, or equip:
  - (A) jail facilities;
  - (B) juvenile court, detention, and probation facilities;
  - (C) other criminal justice facilities; and
  - (D) related buildings and parking facilities;

located in the county, including costs related to the demolition of existing buildings and the acquisition of land; and

- (2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%); or
- (3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of carrying out the purposes described in subsection (b)(1).

(e) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

(g) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the completion of the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b);
- (2) the payment or provision for payment of all the costs for activities described in subdivision (1);
- (3) the redemption of bonds issued; and
- (4) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 24. IC 6-3.5-1.1-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.9. (a) This section applies to a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000).

(b) The county council may, by ordinance, determine that

additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, remodel, or equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

- (2) repay bonds issued or leases entered into for constructing, acquiring, improving, renovating, remodeling, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%); or
- (3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-five (25) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of financing, acquiring, improving, renovating, remodeling, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(e) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique governmental and economic development challenges due to:

- (1) underemployment in relation to similarly situated counties and the loss of a major manufacturing business;
- (2) an increase in property taxes for taxable years after December 31, 2000, for the construction of a new elementary school; and
- (3) overcrowding of the county jail, the costs associated with housing the county's inmates outside the county, and the potential unavailability of additional housing for inmates outside the county.

The use of county adjusted gross income tax revenues as provided in this chapter is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation,



remodeling, and equipping described in subsection (b), rather than the use of property taxes, promotes those purposes.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the redemption of bonds issued; or
- (2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 25. IC 6-3.5-1.1-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, or equip the county courthouse; and
- (2) repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping the county courthouse.

(c) In addition to the rates permitted under section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers in the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, and equipping described in subsection (b) is completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-two (22) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse.

(e) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before a certified distribution is made under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique economic development challenges due to:

- (1) the county's heavy agricultural base;
- (2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and
- (3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or

leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b), rather than the use of property taxes, promotes that purpose.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the redemption of the bonds issued; or
- (2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 26. IC 6-3.5-1.1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.5. (a) After January 1 and before April 1 of a year, the county council of a county may adopt an ordinance to reduce the required six (6) month balance of that county's special account to a three (3) month balance for that county.

(b) To reduce the balance, a county council must adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County council elects to reduce the required county income tax special account balance from a six (6) month balance to a three (3) month balance within ninety (90) days after the adoption of this ordinance."

(c) Not more than thirty (30) days after adopting an ordinance under subsection (b), the county council shall deliver a copy of the ordinance to the budget agency.

(d) Not later than:

- (1) sixty (60) days after a county council adopts an ordinance under subsection (b); and
- (2) December 31; of each year;

the budget agency shall make the calculation described in subsection (e). Not later than ninety (90) days after the ordinance is adopted, the budget agency shall make an initial distribution to the county auditor of the amount determined under subsection (e) STEP FOUR. Subsequent distributions needed to distribute any amount in the county income tax special account that exceeds a three (3) month balance, as determined under STEP FOUR of subsection (e), shall be made in January of the ensuing calendar year after the calculation is made.

(e) The budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 8 of this chapter.

STEP TWO: Divide the amount estimated under section 9(b) of this chapter before any adjustments are made under section 9(c) or 9(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(f) For the purposes of this subsection and subsection (g), "civil taxing unit" includes a city or town that existed on January 1 of the year in which the distribution is made. The county auditor shall distribute an amount received under subsection (d) to the civil taxing units in the same manner as the certified distribution is distributed and not later than thirty (30) days after the county auditor receives the amount. However, the county auditor shall distribute an amount to a civil taxing unit that does not have a property tax levy in the year of the distribution based on an estimate certified by the state board of tax commissioners. The state board of tax commissioners shall compute and certify an amount for a civil taxing unit that does not have a property tax levy equal to the amount to be distributed multiplied by a fraction in which:

(1) the numerator of the fraction equals an estimate of the budget of that civil taxing unit for:

- (A) that calendar year, if the civil taxing unit has adopted a resolution indicating that the civil taxing unit will not adopt a property tax in the ensuing calendar year; or
- (B) the ensuing calendar year, if clause (A) does not apply; and

(2) the denominator of the fraction equals the aggregate attributed levies (as defined in IC 6-3.5-1.1-15) of all civil



taxing units of that county for that calendar year plus the sum of the budgets estimated under subdivision (1) for each civil taxing unit that does not have a property tax levy in the year of the distribution.

(g) The civil taxing units may use the amounts received under subsection (f) for any item for which the particular civil taxing unit's certified shares may be used. The amount distributed shall not be included in the computation under IC 6-1.1-18.5-3.

SECTION 27. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-half (½) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (½) on November 1 of that calendar year.

(b) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) **revenue that must be used to pay the costs of:**

(A) **financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;**

(B) **debt service on bonds; or**

(C) **lease rentals;**

**under section 2.8 of this chapter;**

(3) revenue that must be used to pay the costs of construction, improvement, ~~or renovation, or remodeling~~ of a jail ~~and related buildings and parking structures~~ under section 2.7 ~~or 2.9~~ of this chapter; ~~or~~

~~(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or~~

~~(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;~~

distributions made to a county treasurer under subsection (a) shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(c) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 28. IC 6-3.5-1.1-11, AS AMENDED BY P.L.135-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) **revenue that must be used to pay the costs of:**

(A) **financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;**

(B) **debt service on bonds; or**

(C) **lease rentals;**

**under section 2.8 of this chapter;**

(3) revenue that must be used to pay the costs of construction, improvement, ~~or renovation, or remodeling~~ of a jail ~~and related buildings and parking structures~~ under section 2.7 ~~or 2.9~~ of this chapter; ~~or~~

~~(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or~~

~~(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;~~

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 29. IC 6-3.5-1.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. Before ~~February 1~~ **July 2** of each year, the department shall submit a report to each county ~~treasurer auditor~~ indicating the ~~balance in the county's adjusted gross income tax account as of the end of the preceding year:~~ the following:

(1) **The balance in the county's adjusted gross income tax account as of the end of the preceding year.**

(2) **The required six (6) month balance, or three (3) month balance if the county has adopted an ordinance under section 9.5 of this chapter before the end of the preceding year.**

SECTION 30. IC 6-3.5-1.1-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21.1. (a) **If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance existed at the end of the preceding year in excess of the required six (6) or three (3) month balance, the department may make a supplemental distribution to a county from the county's adjusted gross income tax account.**

(b) **A supplemental distribution described in subsection (a) must be:**

(1) **made in January of the ensuing calendar year; and**

(2) **allocated and used in the same manner as certified distributions.**

(c) **A determination under this section must be made before July 2.**

SECTION 31. IC 6-3.5-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) **This section applies to a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).**

(b) **In addition to the actions authorized under section 2 of this chapter, a county income tax council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county option income tax at a rate that may not exceed twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county income tax council makes the finding and determination required under subsection (c).**

(c) **In order to impose an additional county option income tax rate under this section, the county income tax council must adopt an ordinance finding and determining that revenues from the additional county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, equipping, and operating one (1) or more of the following facilities:**

(1) **A community correction facility.**

(2) **A juvenile treatment center.**

- (3) A records keeping facility.
- (4) A county building.
- (5) An animal shelter.
- (6) An emergency services facility.

The costs that may be paid from revenues collected under this section also include costs related to the land, appurtenances, and infrastructure associated with a facility described in this subsection and the costs of repaying bonds issued or leases entered into for the purchasing, financing, constructing, acquiring, renovating, equipping, and operating the facility.

(d) If the county income tax council makes a determination required under subsection (c), the county income tax council may adopt a tax rate under this section. The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs described in subsection (c).

(e) The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section:

- (1) shall be deposited in the county facilities revenue fund before a certified distribution is made under section 17 of this chapter;
- (2) may not be used for the purposes described in section 17.4, 17.5, 17.6, 18, or 18.5 of this chapter; and
- (3) may not be considered by the department of local government finance in determining the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(f) Notwithstanding section 2 of this chapter, an ordinance may be adopted under this section at any time. If the ordinance is adopted before April 1 of a particular calendar year, a tax rate imposed under this section takes effect on July 1 of the calendar year. If the ordinance is adopted after March 31, a tax rate imposed under this section takes effect on January 1 of the ensuing calendar year.

(g) Notwithstanding any other law:

- (1) funds accumulated from the county option income tax rate imposed under this section and deposited in the county facilities revenue fund; or
- (2) any other revenues of the county;

may be deposited in a nonreverting fund of the county to be used for the operating costs of a facility described in subsection (c). Amounts in the county nonreverting fund may not be used by the department of local government finance to reduce the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(h) A county described in subsection (a) possesses unique fiscal challenges to finance, construct, acquire, renovate, equip, and operate the facilities described in subsection (c) because the county:

- (1) includes a disproportionate percentage of property that is not subject to property taxation; and
- (2) is experiencing sustained growth requiring additional county services.

SECTION 32. IC 6-3.5-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) **Revenue** Except as provided in section 2.5 of this chapter, revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the state budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.

(b) Before June 16 of each calendar year, the department, after reviewing the recommendation of the state budget agency, shall estimate and certify to the county auditor of each adopting county the amount of county option income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately

succeeding calendar year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter.

(d) The department may certify an amount less than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year.

(e) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(f) **Except as provided in section 2.5 of this chapter**, upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(g) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of the state ordering the appropriate payments.

SECTION 33. IC 6-3.5-6-17.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 17. 2. Before July 2 of each year, the department shall submit a report to each county auditor indicating the following:**

- (1) The balance in the county's special account as of the end of the preceding year.
- (2) The required six (6) month balance or three (3) month balance, if the county has adopted an ordinance under:
  - (A) IC 6-3.5-6-17.4;
  - (B) IC 6-3.5-6-17.5; or
  - (C) IC 6-3.5-6-17.6;

**before the end of the preceding year.**

SECTION 34. IC 6-3.5-6-17.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 17. 3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance existed at the end of the preceding year in excess of the required six (6) or three (3) month balance, the department may make a supplemental distribution to a county from the county's special account.**

**(b) A supplemental distribution described in subsection (a) must be:**

- (1) made in January of the ensuing calendar year; and
- (2) allocated and used in the same manner as certified distributions.

**(c) A determination under this section must be made before July 2.**

SECTION 35. IC 6-3.5-6-17.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17.4. (a) This section applies only to a county having a population of more than thirty-six thousand seven hundred (36,700) but less than thirty-seven thousand (37,000).

(b) The county income tax council of a county may adopt an ordinance to reduce the required six (6) month balance of that county's special account to a three (3) month balance for that county.

(c) To reduce the balance a county income tax council must adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council elects to reduce the required county income tax special account balance from a six (6) month balance to a three (3) month balance within ninety (90) days after the adoption of this ordinance."

(d) Not more than thirty (30) days after adopting an ordinance under subsection (c), the county income tax council shall deliver a copy of the ordinance to the budget agency.

(e) Not later than:

(1) sixty (60) days after a county income tax council adopts an ordinance under subsection (c); and

(2) December 31; ~~of each year;~~

the budget agency shall make the calculation described in subsection (f). Not later than ninety (90) days after the ordinance is adopted, the budget agency shall make an initial distribution to the county auditor of the amount determined under subsection (f) STEP FOUR. Subsequent distributions needed to distribute any amount in the county income tax special account that exceeds a three (3) month balance, as determined under subsection (f) STEP FOUR, shall be made in January of the ensuing calendar year after the calculation is made.

(f) The budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(g) The county auditor shall distribute an amount received under subsection (e) to the civil taxing units in the same manner as the certified distribution is distributed and not later than thirty (30) days after the county auditor receives the amount.

(h) The civil taxing units may use the amounts received under subsection (g) for any item for which the particular civil taxing unit's certified distribution may be used.

SECTION 36. IC 6-3.5-6-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17.5. (a) This section does not apply to a county containing a consolidated city.

(b) The county income tax council of any county may adopt an ordinance to reduce the required six (6) month balance of that county's special account to a three (3) month balance for that county on January 1 of a year.

(c) To reduce the balance a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council elects to reduce the required county income tax special account balance from a six (6) month balance to a three (3) month balance."

(d) On or before December 31, ~~of each year;~~ the budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(e) The amount determined in STEP FOUR of subsection (d) shall be distributed to the county auditor in January of the ensuing calendar year.

(f) The county auditor shall distribute the amount received under subsection (e) to the civil taxing units in the same manner as the certified distribution is distributed and not later than thirty (30) days after the county auditor receives the amount.

(g) The civil taxing units may use the amounts received under subsection (f) as follows:

(1) For the later of 1995 or the first calendar year in which the county adopts an ordinance under subsection (c) and:

(A) for each civil taxing unit that is a county, city, or town, for the purposes authorized under IC 36-9-14.5-2 or IC 36-9-15.5-2 (whichever applies and regardless of whether the civil taxing unit has established a cumulative capital development fund under IC 36-9-14.5 or IC 36-9-15.5); and

(B) for each civil taxing unit that is a township or a special taxing district, for any item for which the civil taxing unit may issue a general obligation bond.

(2) For each year after the year to which subdivision (1) applies and for all civil taxing units, for any item for which the

particular civil taxing unit's certified distribution may be used.

SECTION 37. IC 6-3.5-6-17.6, AS AMENDED BY P.L.283-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17.6. (a) This section applies to a county containing a consolidated city.

(b) On or before July ~~15~~ 2 of each year, the budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter as of the end of the current calendar year.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(c) For 1995, the budget agency shall certify the STEP FOUR amount to the county auditor on or before July 15, 1994. Not later than January 31, 1995, the auditor of state shall distribute the STEP FOUR amount to the county auditor to be used to retire outstanding obligations for a qualified economic development tax project (as defined in IC 36-7-27-9).

(d) After 1995, the STEP FOUR amount shall be distributed to the county auditor in January of the ensuing calendar year. The STEP FOUR amount shall be distributed by the county auditor to the civil taxing units within thirty (30) days after the county auditor receives the distribution. Each civil taxing unit's share equals the STEP FOUR amount multiplied by the quotient of:

(1) the maximum permissible property tax levy under IC 6-1.1-18.5 for the civil taxing unit, plus, for a county, an amount equal to:

(A) the property taxes imposed by the county in 1999 for the county's welfare administration fund; plus

(B) after December 31, 2002, the greater of zero (0) or the difference between:

(i) the county hospital care for the indigent property tax levy imposed by the county in 2002, adjusted each year after 2002 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus

(ii) the current uninsured parents program property tax levy imposed by the county; divided by

(2) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 for all civil taxing units of the county, plus an amount equal to:

(A) the property taxes imposed by the county in 1999 for the county's welfare administration fund; plus

(B) after December 31, 2002, the greater of zero (0) or the difference between:

(i) the county hospital care for the indigent property tax levy imposed by the county in 2002, adjusted each year after 2002 by the ~~state~~ statewide average assessed value growth quotient described in IC 12-16-14-3; minus

(ii) the current uninsured parents program property tax levy imposed by the county.

SECTION 38. IC 6-3.5-6-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) **A pledge of county option income tax revenues under this chapter is enforceable in accordance with IC 5-1-14.**

(b) **With respect to obligations for which a pledge has been made under this chapter, the general assembly covenants with the county and the purchasers or owners of those obligations that this chapter will not be repealed or amended in any manner that will adversely affect the tax collected under this chapter as long as the principal of or interest on those obligations is unpaid.**

SECTION 39. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001, SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may

impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), ~~and~~ (g), ~~(j)~~, and (k), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (I), ~~or~~ (j), ~~or~~ (k), (l), (m), (n), or (o), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to ~~a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600); a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).~~ In addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
  - (A) fifteen-hundredths percent (0.15%);
  - (B) two-tenths percent (0.2%); or
  - (C) twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a ~~county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800); a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%)

if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a ~~county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000); a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) ~~For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000); a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

~~(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):~~

~~(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and~~

~~(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);~~

~~if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.~~

~~(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300); a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). In addition to the rates permitted under subsection (b):~~

~~(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and~~

~~(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);~~

~~if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.~~

(l) For a ~~county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For a ~~county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a ~~county having a population of more than six thousand (6,000) but less than eight thousand (8,000),~~ the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a ~~county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600).~~ In addition to the rates permitted under subsection (b):

~~(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and~~

~~(2) the sum of the county economic development income tax rate and:~~

~~(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or~~

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

SECTION 40. IC 6-3.5-7-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.5. Before July 2 of each year, the department shall submit a report to each county auditor indicating the following:

(1) The balance in the county's special account as of the end of the preceding year.

(2) The required six (6) month balance as of the end of the preceding year.

SECTION 41. IC 6-3.5-7-17.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance existed at the end of the preceding year that exceeded the required six (6) month balance as of the end of the preceding year, the department may make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and  
(2) allocated and used in the same manner as certified distributions.

(c) A determination under this section must be made before July 2.

SECTION 42. IC 6-3.5-7-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section;

(2) may not be considered by the state board of tax commissioners in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

SECTION 43. IC 6-9-7-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. This chapter applies to a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600); a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).

SECTION 44. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter.

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (½) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2004; 2014.

(3) For the period beginning January 2000 July 1, 2002, through December 2004; 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of natural resources for the development of projects in or near the state park on the county's largest river, including its tributaries. (referred to as a qualified project): Upon the submission of a written claim by the department of natural resources requesting funds for a qualified project and to the extent there is money in the special account, the county council shall appropriate and the county auditor shall issue warrants to pay the claim.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2006, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit

**corporation's use in noncapital projects in the state park.**

Money in the special account may not be used for any other purpose. The money credited to the account that has not been used for ~~qualified projects as specified in this subdivision~~ by January 1, 2005, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2004 2014 as follows:

(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.

(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both."

Page 18, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 30. IC 33-3-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The tax court shall establish a small claims docket for processing:

(1) claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year; and

(2) appeals of final determinations of assessed value made by the ~~state board of tax commissioners~~ **Indiana board of tax review** that do not exceed forty-five thousand dollars (\$45,000).

(b) The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

SECTION 45. IC 33-3-5-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001 (RETROACTIVE)]: **Sec. 14.1. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding asserting the invalidity.**

**(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.**

**(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.**

**(d) The tax court shall grant relief under section 15 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:**

**(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;**

**(2) contrary to constitutional right, power, privilege, or immunity;**

**(3) in excess of or short of statutory jurisdiction, authority, or limitations;**

**(4) without observance of procedure required by law; or**

**(5) unsupported by substantial or reliable evidence.**

**(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that**

**are final as of January 1, 2002.**

SECTION 46. IC 33-3-5-14.2, AS ADDED BY P.L.198-2001, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.2. (a) The office of the attorney general shall represent a township assessor, **an executive (as defined in IC 36-1-2-5) of a township who performs the duties of a township assessor under IC 36-6-5-2**, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

(1) made an original determination that is the subject of a judicial proceeding in the tax court; and

(2) is a defendant in a judicial proceeding in the tax court.

(b) Notwithstanding representation by the office of the attorney general, the duty of discovery is on the parties to the judicial proceeding.

(c) Discovery conducted under subsection (b) shall be limited to production of documents from the administrative law judge presiding over the review under IC 6-1.1-15-3. The administrative law judge shall not be summoned to testify before the tax court unless verified proof is offered to the tax court that the impartiality of the administrative law judge was compromised concerning the review.

(d) A township assessor, **an executive (as defined in IC 36-1-2-5) of a township who performs the duties of a township assessor under IC 36-6-5-2**, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals:

(1) may seek relief from the tax court to establish that the Indiana board of tax review rendered a decision that was:

~~(1) (A)~~ an abuse of discretion;

~~(2) (B)~~ arbitrary and capricious;

~~(3) (C)~~ contrary to substantial or reliable evidence; or

~~(4) (D)~~ contrary to law; and

**(2) may not be represented by the office of the attorney general in an action initiated under subdivision (1).**

SECTION 47. IC 34-6-2-38, AS AMENDED BY P.L.250-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

(1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);

(2) an agent or employee of an independent contractor;

(3) a person appointed by the governor to an honorary advisory or honorary military position; or

(4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

(c) A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in IC 34-6-2-49) shall be considered a public employee for purposes of IC 34-13-3(21).

**(d) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:**

**(1) a contractor under IC 6-1.1-4-32;**

**(2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32;**

**(3) a subcontractor of the contractor under IC 6-1.1-4-32 that is acting within the scope of the subcontractor's duties; or**



**(4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.**

SECTION 48. IC 36-2-5-3, AS AMENDED BY P.L.198-2001, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to:

- (1) fix the number of officers, deputies, and other employees;
- (2) describe and classify positions and services;
- (3) adopt schedules of compensation; and
- (4) hire or contract with persons to assist in the development of schedules of compensation.

(b) The county fiscal body shall ~~fix the annual compensation of~~ **provide for** a county assessor who has attained a level two certification under IC 6-1.1-35.5 ~~at an amount that is to receive annually one thousand dollars (\$1,000), more than which is in addition to and not part of the annual compensation of an~~ assessor. ~~who has not attained a level two certification.~~ The county fiscal body shall ~~fix the annual compensation of~~ **provide for** a county or township deputy assessor who has attained a level two certification under IC 6-1.1-35.5 ~~at an amount that is to receive annually five hundred dollars (\$500), more than which is in addition to and not part of the annual compensation of a~~ the county or township deputy assessor. ~~who has not attained a level two certification.~~

(c) Notwithstanding subsection (a), the board of each local health department shall prescribe the duties of all its officers and employees, recommend the number of positions, describe and classify positions and services, adopt schedules of compensation, and hire and contract with persons to assist in the development of schedules of compensation.

(d) This section does not apply to community corrections programs (as defined in IC 11-12-1-1 and IC 35-38-2-6-2).

SECTION 49. IC 36-2-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

- (1) the application of the **county fiscal body or the** affected officer, department, commission or agency; and
- (2) a ~~two-thirds (2/3)~~ **majority** vote of the county fiscal body.

SECTION 50. IC 36-2-9-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. The county auditor shall:

- (1) maintain an electronic data file of the information contained on the tax duplicate for all:

- (A) parcels; and
- (B) personal property returns;

for each township in the county as of each assessment date;

- (2) maintain the file in the form required by:
  - (A) the legislative services agency; and
  - (B) the department of local government finance; and
- (3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:

- (A) the legislative services agency; and
- (B) the department of local government finance."

Page 18, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 14. IC 36-7-31.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **Except as provided in section 8(b) of this chapter**, this chapter applies only to a city or a county without a consolidated city that has a professional sports franchise playing the majority of its home games in a facility owned by the city, the county, a school corporation, or a board under **IC 36-9-13**, IC 36-10-8, IC 36-10-10, or IC 36-10-11.

SECTION 51. IC 36-7-31.3-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. As used in this chapter, "covered taxes" means the **part of the following taxes attributable to the operation of a facility designated as part of a tax area under section 8 of this chapter**:

- (1) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.
- (2) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.
- (3) A county option income tax imposed under IC 6-3-5.
- (4) **Except in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), a food and beverage tax imposed under IC 6-9.**

SECTION 52. IC 36-7-31.3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5.5. As used in this chapter, "designating body" means a:

- (1) city legislative body; or
- (2) county legislative body;

that may establish a tax area under this chapter.

SECTION 53. IC 36-7-31.3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) A ~~city or county legislative~~ **designating** body may ~~establish~~ **designate** as part of a professional sports and convention development area any facility that is:

- (1) owned by the city, the county, a school corporation, or a board under **IC 36-9-13**, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise **for practice or competitive sporting events**; or
- (2) owned by the city, the county, or a board under **IC 36-9-13**, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used **as one (1) of the following**:

- (A) A facility used principally for convention or tourism related events **serving national or regional markets.**
- (B) An airport.
- (C) A museum.
- (D) A zoo.
- (E) A facility used for public attractions of national significance.
- (F) A performing arts venue.
- (G) A county courthouse registered on the National Register of Historic Places.

A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which the a facility is located. An area may contain noncontiguous tracts of land within the city, or county, or school corporation.

(b) Except for a tax area that is located in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a tax area must include at least one (1) facility described in subsection (a)(1).

(c) A tax area may contain other facilities not owned by the designating body if:

- (1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and
- (2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

SECTION 54. IC 36-7-31.3-9, AS AMENDED BY P.L.174-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) A tax area must be initially established by resolution:

- (1) except as provided in subdivision (2), before July 1, 1999; or
- (2) in the case of a second class city, before July 1, 2002; 2003; according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. A tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. **Only one (1) tax area may be created in each county.**

(b) In establishing the tax area, the ~~city or county legislative~~



**designating** body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) **Except for a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used**

(A) **by a professional sports franchise for practice or**

(B) **for convention or tourism related events; competitive sporting events.**

**A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.**

(2) **For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.**

(3) **The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.**

(4) **The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.**

(c) **The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.**

**SECTION 55. IC 36-7-31.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 11. Upon adoption of a resolution establishing a tax area under section 10 of this chapter, the ~~city or county legislative designating~~ body shall submit the resolution to the budget committee for review and recommendation to the budget agency.

**SECTION 56. IC 36-7-31.3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 13. When the ~~city or county legislative designating~~ body adopts an allocation provision, the county auditor shall notify the department by certified mail of the adoption of the provision and shall include with the notification a complete list of the following:

(1) **Employers in the tax area.**

(2) **Street names and the range of street numbers of each street in the tax area.**

The county auditor shall update the list before July 1 of each year.

**SECTION 57. IC 36-7-31.3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 17. The department shall notify the county auditor of the amount of taxes to be distributed to the county treasurer. **For tax areas described in section 8(c) of this chapter, the department shall notify the county auditor of the amount of taxes to be distributed to each party to the agreement. The notice must specify the distribution and uses of covered taxes to be allocated under this chapter.**

**SECTION 58. IC 36-7-31.3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for **the following:**

(1) **Except in a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility**

(A) **owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by a professional sports franchise or**

(B) **for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under**

**IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for convention and tourism related events; or any purpose specified in section 8(a)(2) of this chapter.**

(2) **In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.**

(3) **The financing or refinancing of a capital improvement described in subdivision (1) or (2) or the payment of lease payments for a capital improvement described in subdivision (1) or (2).**

**SECTION 59. IC 36-7-31.3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 20. The ~~city or county legislative designating~~ body shall repay to the professional sports development area fund any amount that is distributed to the ~~city or county legislative designating~~ body and used for:

(1) **a purpose that is not described in this chapter; or**

(2) **a facility or facility site other than the facility and facility site to which covered taxes are designated under the resolution described in section 10 of this chapter.**

The department shall distribute the covered taxes repaid to the professional sports development area fund under this section proportionately to the funds and the political subdivisions that would have received the covered taxes if the covered taxes had not been allocated to the tax area under this chapter."

Page 19, between lines 28 and 29, begin a new paragraph and insert:

"**SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]:** IC 6-1.1-4-13.6; IC 6-1.1-4-13.8; IC 6-1.1-33; IC 6-1.1-38.

**SECTION 60. P.L.198-2001, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001 (RETROACTIVE)]:** SECTION 117. (a) IC 6-1.1-15-3 and IC 6-1.1-15-4, both as amended by ~~this act~~, **P.L.198-2001**, apply to petitions for review filed under IC 6-1.1-15-3, as amended by ~~this act~~, **P.L.198-2001**, with respect to notices of action of the county property tax assessment board of appeals issued after December 31, 2001.

(b) IC 6-1.1-15-5 and IC 6-1.1-15-6, both as amended by ~~this act~~, **P.L.198-2001**, apply to petitions for judicial review of final determinations issued under IC 6-1.1-15-4, as amended by ~~this act~~, **P.L.198-2001**, after December 31, 2001.

(c) **Petitions for review filed under IC 6-1.1-15-3 with respect to notices of action of the county property tax assessment board of appeals issued before January 1, 2002, that are pending before the state board of tax commissioners on December 31, 2001:**

(1) **are transferred to the Indiana board of tax review; and**

(2) **are subject to the law in effect before amendments under this act, P.L.198-2001.**

The state board of tax commissioners shall transfer to the Indiana board of tax review by January 1, 2002, the records relating to each petition for review referred to in this subsection.

(d) **Except as provided in subsection (e), appeals initiated under IC 6-1.1-15-5 of final determinations of the state board of tax commissioners issued before January 1, 2002, are subject to the law in effect before amendments under this act, P.L.198-2001.**

(e) **Appeals initiated under IC 6-1.1-15-5 of final determinations of the state board of tax commissioners issued after June 30, 2001, and before January 1, 2002, are subject to IC 33-3-5-14.7, as added by P.L.198-2001.**

(f) **IC 33-3-5-14, as amended by this act, P.L.198-2001, and IC 33-3-5-14.2, IC 33-3-5-14.5, and IC 33-3-5-14.8, all as added by this act, P.L.198-2001, apply to appeals initiated under IC 6-1.1-15-5, as amended by this act, P.L.198-2001, of final determinations of the Indiana board of tax review issued after December 31, 2001.**

(g) **The following, each as amended by this act, P.L.198-2001, apply to refunds on refund claims filed after December 31, 2001:**

IC 6-1.1-26-2  
 IC 6-1.1-26-3  
 IC 6-1.1-26-4  
 IC 6-1.1-26-5.

SECTION 61. [EFFECTIVE UPON PASSAGE] The appointment by the governor of the commissioner of the department of local government finance before the effective date of this act is legalized and validated as if the appointment had been made on or after the effective date of this act."

Page 20, between lines 8 and 9, begin a new paragraph and insert:  
 "SECTION 34. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-2.8, as added by this act, may adopt an ordinance to increase the county's adjusted gross income tax rate after March 31, 2002, and before September 20, 2002.

(b) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under subsection (a) takes effect January 1, 2003.

(c) This SECTION expires January 2, 2003.

SECTION 62. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue.

(b) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-2.9, as added by this act, may adopt an ordinance to increase the county's county adjusted gross income tax rate after March 31, 2002, and before September 20, 2002.

(c) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION before June 1, 2002, takes effect July 1, 2002. In determining the certified distribution for the calendar year beginning January 1, 2003, as required under IC 6-3.5-1.1-9 to be performed before July 2, 2002, for a county adopting an ordinance within the time specified in this subsection, the department shall take into account the certified ordinance forwarded to the department under IC 6-3.5-1.1-3(c) in determining the amount of the county's certified distribution for the calendar year beginning January 1, 2003.

(d) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION after May 31, 2002, takes effect January 1, 2003. Not later than thirty (30) days after receiving the certified ordinance under IC 6-3.5-1.1-3(c) from a county adopting an ordinance within the time specified in this subsection, the department shall revise the county's certified distribution determined under IC 6-3.5-1.1-9 for the calendar year beginning January 1, 2003, to take into account the increased county adjusted gross income tax rate specified in the certified ordinance. Notwithstanding IC 6-3.5-1.1-10, as amended by this act, the first distribution reflecting the increased county adjusted gross income tax rate shall be made to the county treasurer beginning November 1, 2003.

(e) This SECTION expires January 1, 2004.

SECTION 63. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue.

(b) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-3.6, as added by this act, may adopt an ordinance to increase the county's county adjusted gross income tax rate after March 31, 2002, and before September 20, 2002.

(c) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION before June 1, 2002, takes effect July 1, 2002. In determining the certified distribution for the calendar year beginning January 1, 2003, as required under IC 6-3.5-1.1-9 to be performed before July 2, 2002, for a county adopting an ordinance within the time specified in this subsection, the department shall take into account the certified ordinance forwarded to the department under IC 6-3.5-1.1-3(c) in determining the amount of the county's certified distribution for the calendar year beginning January 1, 2003.

(d) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION after May 31, 2002, takes effect January 1, 2003. Not later than thirty (30) days after receiving the certified ordinance under IC 6-3.5-1.1-3(c) from a county

adopting an ordinance within the time specified in this subsection, the department shall revise the county's certified distribution determined under IC 6-3.5-1.1-9 for the calendar year beginning January 1, 2003, to take into account the increased county adjusted gross income tax rate specified in the certified ordinance. Notwithstanding IC 6-3.5-1.1-10, as amended by this act, the first distribution reflecting the increased county adjusted gross income tax rate shall be made to the county treasurer beginning November 1, 2003.

(e) This SECTION expires January 1, 2004.

SECTION 64. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-10-21, as amended by this act, applies only to property taxes first due and payable after December 31, 2002.

(b) This SECTION expires January 1, 2004."

Renumber all SECTIONS consecutively.

(Reference is to HB 1196 as introduced, and as amended by the consent of the House Ways and Means Committee on January 29, 2002.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 3.

BAUER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1256, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 27. Executive Commission on Hispanic/Latino Affairs

Sec. 1. The executive commission on Hispanic/Latino affairs is established.

Sec. 2. (a) The commission shall do the following:

- (1) Identify and research issues affecting the Hispanic/Latino communities.
- (2) Promote cooperation and understanding between the Hispanic/Latino communities and other communities throughout Indiana.
- (3) Report to the legislative council and the governor concerning Hispanic/Latino issues, including the following:
  - (A) Conditions causing exclusion of Hispanics/Latinos from the larger Indiana community.
  - (B) Measures to stimulate job skill training and related workforce development.
  - (C) Measures to sustain cultural diversity while improving race and ethnic relations.
  - (D) Public awareness of issues affecting the Hispanic/Latino communities.
  - (E) Measures that could facilitate easier access to state and local government services by Hispanics/Latinos.
  - (F) Challenges and opportunities arising out of the growing Hispanic/Latino population.

(b) The commission may study other topics as assigned by the legislative council or the governor.

(c) The commission may make legislative recommendations to the general assembly.

Sec. 3. (a) The commission consists of thirteen (13) members appointed as follows:

- (1) Two (2) members of the senate, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.
- (2) Two (2) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

- (3) Two (2) members of the Hispanic/Latino community who are not members of the general assembly, to be appointed by the president pro tempore of the senate.
- (4) Two (2) members of the Hispanic/Latino community who are not members of the general assembly, to be appointed by the speaker of the house of representatives.
- (5) Five (5) members of the Hispanic/Latino community, to be appointed by the governor.

In making their appointments under this section, the president pro tempore of the senate, the speaker of the house of representatives, and the governor shall attempt to have the greatest number of counties represented on the commission.

(b) The governor shall appoint a member of the commission to serve as chairperson.

(c) If a legislative member of the commission ceases being a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.

(d) A member of the commission may be removed at any time by the appointing authority who appointed the member.

(e) If a vacancy exists on the commission, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.

(f) Each member of the commission who is a member of the general assembly is a nonvoting member.

(g) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.

Sec. 4. (a) The department of workforce development shall provide staff support to the commission.

(b) The expenses of the commission shall be paid from appropriations made to the department of workforce development.

Sec. 5. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

SECTION 2. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 28. Legislative Commission on Native American Affairs**

Sec. 1. The legislative commission on Native American affairs is established.

Sec. 2. (a) The commission shall do the following:

- (1) Identify and research issues affecting the Native American community.
- (2) Promote cooperation and understanding between the Native American community and other communities throughout Indiana.
- (3) Report to the general assembly concerning Native American issues, including the following:
  - (A) Conditions causing exclusion of Native Americans from the larger Indiana community.
  - (B) Measures to stimulate job skill training and related

workforce development.

(C) Measures to sustain cultural diversity while improving race and ethnic relations.

(D) Public awareness of issues affecting the Native American community.

(E) Measures that could facilitate easier access to state and local government services by Native Americans.

(F) Challenges and opportunities arising out of the growing Native American population.

(b) The commission may study other topics as assigned by the legislative council or as directed by its chairman.

(c) The commission may make legislative recommendations under rules adopted by the legislative council.

Sec. 3. (a) The commission consists of sixteen (16) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) Four (4) members of the Native American community who are not members of the general assembly to be appointed by the president pro tempore of the senate.

(4) Four (4) members of the Native American community who are not members of the general assembly to be appointed by the speaker of the house of representatives.

In making appointments under this section, the president pro tempore of the senate and the speaker of the house of representatives shall attempt to have the greatest number of counties represented on the commission.

(b) The chairman of the legislative council shall appoint a member of the commission to serve as chairperson. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the commission and appoint another chairperson.

(c) If a legislative member of the commission ceases being a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.

(d) A legislative member of the commission may be removed at any time by the appointing authority who appointed the legislative member.

(e) If a vacancy exists on the commission, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.

Sec. 4. The commission shall operate under the rules of the legislative council.

Sec. 5. The legislative services agency shall provide staff support to the commission.

Sec. 6. Each member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(Reference is to HB 1256 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

#### **COMMITTEE REPORT**

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1298, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

**OTHER BUSINESS ON THE SPEAKER'S TABLE****Referrals to Ways and Means**

The Speaker announced, pursuant to House Rule 127, that House Bill 1153 had been referred to the Committee on Ways and Means.

**Reassignments**

The Speaker announced the reassignment of House Bill 1117 to the Committee on Rules and Legislative Procedures.

**PETITION TO CHANGE VOTING RECORD**

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1195, Roll Call 50, on January 30, 2001. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the Yea button when I intended to vote Nay."

DUNCAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 50 to 66 yeas, 29 nays. The corrected roll call is printed with this Journal.*]

**HOUSE MOTION**

Mr. Speaker: I move that Representatives Bischoff, Duncan, and Thompson be added as coauthors of House Bill 1019.

OXLEY

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Cochran and Leuck be added as coauthors of House Bill 1065.

TINCHER

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 1071.

STILWELL

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Mock be added as coauthor of House Bill 1106.

MOSES

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative M. Smith be added as coauthor of House Bill 1117.

FRY

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Atterholt be added as coauthor of House Bill 1134.

SUMMERS

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Noe be added as coauthor of House Bill 1163.

CROOKS

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Thompson be added as coauthor of House Bill 1171.

AVERY

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1179.

KROMKOWSKI

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Ayres be added as coauthor of House Bill 1186.

COCHRAN

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1196.

BAUER

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Kruzan, Atterholt, and Herrell be added as coauthors of House Bill 1223.

T. ADAMS

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representatives Kruzan and Turner be added as coauthors of House Bill 1245.

D. YOUNG

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Behning be added as coauthor of House Bill 1246.

SUMMERS

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1256.

AGUILERA

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Klinker be added as coauthor of House Bill 1298.

DILLON

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1335.

POND

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Herndon the House adjourned at 4:50 p.m., this thirtieth day of January, 2002, until Thursday, January 31, 2002, at 10:00 a.m.

JOHN R. GREGG  
Speaker of the House of Representatives

LEE ANN SMITH  
Principal Clerk of the House of Representatives